Indiana Department of Education **Division of Exceptional Learners**

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-219-2007
COMPLAINT INVESTIGATOR:	Sheron Cochran
DATE OF COMPLAINT:	May 18, 2007
DATE OF REPORT:	June14, 2007
REQUEST FOR RECONSIDERATION:	n/a
DATE OF CLOSURE:	July 11, 2007

COMPLAINT ISSUES:

Whether the Bartholomew Consolidated School Corporation and Bartholomew Special Services Cooperative violated:

511 IAC 7-27-4(a)(5) with regard to convening a case conference committee (CCC) meeting for the Student within ten (10) instructional days of the enrollment date at the Columbus Behavior Center; and

511 IAC 7-27-7(c) with regard to implementing the Student's individualized education program (IEP).

FINDINGS OF FACT:

1. The Student is thirteen years old, has an emotional disability, a learning disability, and a communication disorder, and has been determined eligible for special education and related services by the School Corporation of Legal Settlement.

2. The Complainant unilaterally enrolled the Student in the residential mental health treatment facility (the Facility) located outside of the boundaries of the School Corporation of Legal Settlement on April 23, 2007.

3. A special education teacher (the Special Education Teacher) employed by the School Corporation where the Facility is located is housed at the Facility. The Special Education Teacher attendance logs for the week of April 23rd and April 30th document that an educational program was provided to the Student from the time of enrollment. The Special Education Teacher utilized the Student's individualized education program (IEP) developed by the case conference committee (CCC) at the School Corporation of Legal Settlement.

5. The Student's IEP from the School Corporation of Legal Settlement indicates that the Student will receive direct speech services in an integrated environment 2x/week for 30 minutes. The director of the Special Education Cooperative (the Director) acknowledged that the Student did not receive speech services in accordance with the Student's IEP.

6. On April 25, 2007, the Special Education Teacher emailed the Speech-Language Pathologist (SLP) employed the School Corporation where the Facility is located of "a new seventh-grader who will need speech services." On April 25, 2007, the SLP informed the Special Education Teacher that she was no longer assigned to the Facility. The email message discussing the Student's need for speech therapy was forwarded on May 3, 2007 to another SLP assigned to the Facility. The SLP set up a meeting with the Student for May 7, 2007. The SLP indicated the IEP would need to be revised to reflect the services that the School Corporation where the Facility is located would provide. The SLP also indicated that if the assistive technology device of Earobics© was in the Student's IEP, then it would have to be provided.

7. The Complainant reported that the Student informed her that the SLP met with the Student one time.

8. The Complainant and the Director reported that a case conference committee (CCC) meeting was not conducted within ten (10) instructional days after the Student's unilateral enrollment at the Facility (by May 4, 2007).

9. The Director indicated that since this was a parentally-placed private school placement, a free appropriate public education (FAPE) did not have to be guaranteed to the Student.

10. The Facility is a private residential mental health treatment facility. Medicaid designates the Facility as a Psychiatric Residential Treatment Facility. The Facility is accredited by JCAHO - Joint Commission on Accreditation of Healthcare Organizations. (http://www.psysolutions.com/facilities/columbus/questions.html#adolescents)

11. The Facility discharged the Student on May 10, 2007. The Time Log provided by the Facility indicated that student was discharged "due to not being able to treat or use hospital interventions."
12. The Complainant and the Special Education Director of the School Corporation of Legal Settlement report that the Student has returned to the School Corporation of Legal Settlement.

CONCLUSIONS:

1. Finding of Fact # 10 indicates that the Director contends the Facility is a private school or facility that falls under the requirements of 511 IAC 7-19-1. If the Facility met the definition of a private school under 511 IAC 7-19 then there is no individual right to special education and related services. The Facility is not a private school under 511 IAC 7-19-1 or the Individuals with Disabilities Education Act, 2004 (IDEA 04). 34 CFR 300.130 defines parentally-placed private school children with disabilities as children enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary or secondary school determined under State law. The Facility does not meet the definition of elementary or secondary school as determined under State law.

2. Finding of Fact # 11 indicates that the Facility is a private residential mental health treatment facility that falls under requirements of IC 20-26-11-8. The Facility is a state licensed "Child Caring Institution." IC 20-26-11-8(b) states "A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located…." Therefore, the Student has a right to attend the School Corporation where the Facility is located. The Student is a move-in student from another district within the state. In accordance with IC 20-26-11-8, the School Corporation in which the student has legal settlement would be obligated to pay transfer tuition of the student.

3. Finding of Fact # 4 indicates that the School Corporation where the Facility is located was notified on April 23, 2007, the day of enrollment, that the student was enrolled in the Facility.
Finding of Fact # 8 indicates a CCC meeting was not conducted on or before ten (10) instructional days of the enrollment at the Facility. Therefore, a violation of 511 IAC 7-27-4(a)(5) is found.

4. Findings of Facts # 5, #6, and # 7 indicate that speech services were not provided in accordance with the Student's IEP. Therefore, a violation of 511 IAC 7-27-7(c) is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

1. Send a memorandum to personnel from the School Corporation where the Facility is located that are assigned to work with students of the Facility regarding convening a case conference committee meeting for the Student within ten (10) instructional days of the enrollment date at the Facility [511 IAC 7-27-4(a)(5)] and regarding implementation of the Student's individualized education program immediately upon enrollment from another district [511 IAC 7-27-7(c)]. Send documentation to the Division no later than July 20, 2007.

2. Write an assurance statement to the Division assuring that heretofore, (1) when parents of children decide to enroll their children in the Facility, a CCC meeting will be convened within ten (10) instructional days of the enrollment date of a student who has been receiving special education in another district within the state and (2) services identified in an agreed-upon IEP shall be provided as soon as the necessary arrangements are completed, but no later than immediately upon enrollment from another district within the state. This assurance shall be sent to the Division no later than July 20, 2007.