

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: CP-239-2008  
COMPLAINT INVESTIGATOR: Brian Simkins  
DATE OF COMPLAINT: July 9, 2007  
DATE OF REPORT: August 8, 2007  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: August 31, 2007

**COMPLAINT ISSUES:**

Whether the Northwest Allen County Schools and the Smith-Green-West Allen Special Education Cooperative violated:

511 IAC 7-27-4(a)(4) and (7) by failing to convene the case conference committee meeting to change the student's placement to that of an interim alternative setting.

511 IAC 7-29-3(a) by placing a student in an interim alternative educational setting for more than 45 calendar days.

511 IAC 7-29-5(a)(1) by failing to develop a plan for assessing the student's functional behavior within 10 business days of placing the student in an interim alternative educational setting.

511 IAC 7-29-5(b) by failing to convene the case conference committee within 10 instructional days of the completion of a functional behavioral assessment to develop a behavioral intervention plan.

**FINDINGS OF FACT:**

1. The Student, 15 years old, is identified as a student with a learning disability, and has been determined eligible for special education and related services.
2. The Student was enrolled in a non-credit driver's education class held at the local high school (the "School"). On June 18, 2007, the Student was suspended pending expulsion due to the use of illegal drugs on school grounds. The Student's expulsion hearing was conducted on June 28, 2007.
3. Although school was out of session for the summer, the case conference committee convened on June 20, 2007 to determine whether the Student's behavior was a manifestation of his disability. The case conference committee agreed that the Student's behavior was not a manifestation of the Student's disability. The case conference committee also agreed to conduct a functional behavior assessment in order to determine whether the case conference committee, when it reconvenes in August 2007, shall develop a behavioral intervention plan for the 2007-2008 school year. The case conference committee further agreed to determine at the next meeting in August 2007 the Student's placement, special education and related services in an interim alternative educational setting. The Student's change of placement will begin at the start of the 2007-2008 school year.
4. Both the Complainant and the School acknowledge that the Principal made the decision to place the Student in an interim alternative educational setting at the expulsion hearing. The Complainant alleges

that the Principal also unilaterally decided where the Student will be placed. There is no documentation indicating whether the Principal made such a decision. However, both the Complainant and the School acknowledge, and the case conference notes dated June 20, 2007 reflect, that the case conference committee already began discussing the Student's placement in an interim alternative educational setting. The case conference committee tentatively agreed to a placement, but the decision would not be final until the case conference committee reconvenes in August 2007.

#### **CONCLUSIONS:**

1. Findings of Fact #3 and #4 indicate that the School did not fail to convene a case conference committee meeting to determine the Student's placement in an interim alternative educational setting. The case conference committee has agreed to convene in August 2007 to determine placement and services for the 2007-2008 school year. Therefore, a violation of 511 IAC 7-27-4(a)(4) and (7) is not found.
2. Finding of Fact #3 indicates that the Student has not yet been placed in an interim alternative educational setting. The change of placement to an alternative setting will begin at the start of the 2007-2008 school year. Therefore, a violation of 511 IAC 7-29-3(a) is not found.
3. Finding of Fact #3 indicates that on June 20, 2007, the case conference committee agreed to conduct a functional behavior assessment and reconvene in August 2007 to determine whether to develop a behavioral intervention plan. Therefore, a violation of 511 IAC 7-29-5(a)(1) is not found with respect to developing a plan for assessing the Student's functional behavior within 10 business days of placing the Student in an interim alternative setting.
4. Findings of Fact #3 and #4 indicate that the assessment of the Student's functional behavior has not been conducted yet, although the case conference committee has agreed to conduct a functional behavior assessment. Therefore, a violation of 511 IAC 7-29-5(b) is not found with respect to convening the case conference committee within 10 instructional days of the completion of a functional behavior assessment in order to develop a behavioral intervention plan.

**The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.**