

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-253-2008
COMPLAINT INVESTIGATOR:	Nicole Confer
DATE OF COMPLAINT:	September 4, 2007
DATE OF REPORT:	October 4, 2007
REQUEST FOR RECONSIDERATION:	Yes/November 1, 2007 - Revised
DATE OF CLOSURE:	December 20, 2007

COMPLAINT ISSUES:

Whether the Indianapolis Public Schools violated:

511 IAC 7-25-2(a) and (b)(4) by failing to implement the school corporation's child identification procedures that ensure the location, identification, and evaluation of students for whom an educational evaluation has been requested either by the parent or the public agency.

During the course of this investigation, the following issue was added to the investigation:

511 IAC 7-25-2(b)(3) by failing to have in place child identification procedures that encompass the evaluation of students, for special education eligibility, for whom a pattern of behavioral or performance concerns within the school setting demonstrates the need for such services.

FINDINGS OF FACT:

1. The Student is 16 years old and is currently not identified as eligible for special education services. She is no longer attending school at Indianapolis Public Schools (Corporation A) and is instead enrolled in the Metropolitan School District of Perry Township (Corporation B), a neighboring school corporation, where she attends school at Corporation B's Alternative School.
2. The student attended school at Beech Grove City Schools (Corporation C) from kindergarten through third grade. The Student repeated the first grade at Corporation C. The Student attended school at Corporation A during her fourth grade year only, before she was enrolled in Corporation B for her fifth and sixth grade school years (2002-2004). The Student repeated the sixth grade but attended one of the charter schools in Marion County for half of the school year, before being enrolled at Corporation A again in the spring of 2005 for the completion of her second sixth grade school year. The Student remained enrolled in Corporation A for her seventh grade school year (2005-2006). She repeated the seventh grade in Corporation A (2006-2007). In May 2007, Corporation A made the decision to retain the Student in the seventh grade for a third time. The Student was re-enrolled in Corporation B for the 2007-2008 school year.
3. While in the fourth grade at Corporation A, the Student was evaluated, per Complainant's written request, for special education eligibility. The evaluation report included such statements as "[The Student] has difficulty focusing on academic tasks and is struggling in (sic) class" and "serious problems – cognitive problem/inattention, hyperactivity, oppositional behavior, anxious/shy, social problems" in a description of social/emotional behaviors. The Multidisciplinary Evaluation Team Report (the Report) specified that "She needed directions

repeated several times. She did better when she was able to focus on the task.” The Report also indicated that “[The Student] is described as . . . fidgety, forgetful, disorganized, emotional, inattentive, overly talkative, demanding of immediate attention, and does not follow through on tasks. These behaviors occur all day long and are to a level where they are disrupting other children in the classroom as well.” The Report concluded by summarizing that the Student “received the highest score possible” for Attention Deficit Hyperactivity Disorder (ADHD), “meaning that these areas are at a critical level in terms of disrupting the learning process” and “In conclusion, from test data and school information, [the Student] is a child who has a slower learning rate and cognitive capacity. She needs extra time to complete work and to process new facts. Her behavior is very disruptive and indicative of a child who has severe attention and hyperactivity problems. These behaviors are preventing [the Student] from reaching her full potential.” In addition to these comments, the Student’s test scores in areas relating to attention and hyperactivity indicated “serious problems.”

4. Following the initial educational evaluation, Corporation A found that the Student was not eligible for special education services. In its letter of response to this complaint, the School stated that the Student was found ineligible because “academically [the Student] was performing commensurate with or above her expectancy level in all academic areas.” The Complainant signed the recommendation, agreeing that the Student was not eligible for special services. When questioned about her agreement to finding the Student ineligible for services the Complainant stated simply, “I thought I had to sign the paper.”
5. The Complainant stated that, on numerous occasions, when enrolling the Student, she informed Corporation A personnel responsible for student enrollment that she believed the Student was in need of special education services, might have learning disabilities, and that “she needed extra help.” The Complainant remembers specifically that when she enrolled her children in school each year at Corporation A, staff members responsible for enrolling students would inquire into whether the Student had an IEP. Although the Student did not have an IEP at the time, the Complainant intended to communicate the Student might be eligible for special education services. The Complainant never submitted a written evaluation request and does not remember ever being given the option or instructed that a written referral form was required to initiate an evaluation for special education services.
6. Corporation A provided copies of pages from the School Procedures Manual regarding child find and evaluation of students in need of special education services. This manual, in its entirety, is given to each building principal, compliance monitor, speech therapist, and psychologist in the district. This manual is not provided to general education teachers or administrative staff (including secretarial staff responsible for student enrollment). However, according to Corporation A’s documentation, the manual is available for anyone in the district to access online. Corporation A maintains that individuals responsible for student enrollment attend in-services prior to student enrollment when child find and evaluation procedures are discussed; however, documentation was not provided to that effect.
7. The Complainant hand-delivered a written request for an educational evaluation to the Student’s School on May 23, 2007, the same day the School sent the Complainant the retention letter. Corporation A is unable to document what date the letter was actually received. When the letter was discovered in the summer (2007) by the School’s Compliance Monitor, she sent the written request to Corporation A’s alternative program, where the Student was believed to be attending school. Corporation A did not evaluate the Student prior to her enrollment in Corporation B.
8. Corporation A provided documentation of serious attendance issues and failing grades during the 2006-2007 school year in justifying its decision to retain the Student in the seventh grade

for the third time, although the student was 16 years old at the time of Corporation A's decision. Because of the Student's above-average age, Corporation A referred the Student to the Corporation's alternative education program, which is designed for over-aged middle school students. This referral occurred at a time close to the decision to retain the Student in the seventh grade for a third time. The Complainant was given a brochure about Corporation A's alternative program but at no time did the Complaint sign official enrollment forms. Per Corporation A policy, when a referral to the alternative program is made, the student is no longer considered a student of the referring middle school but is instead a student of the alternative program. The Student did not appear at her middle school on the first day of school, which due to the school's alternative schedule was July 23, 2007. Neither the Complainant nor the Student attended the mandatory orientation meetings at the alternative program, and the Student did not attend school on August 15, 2007, the first day of school for the alternative program. When alternative program personnel called the Complainant regarding the Student's attendance, the Complainant informed school personnel that the Student had been enrolled at Corporation B. As a result, Corporation A withdrew the Student effective August 15, 2007.

9. The Complainant enrolled the Student in Corporation B on August 29, 2007. The Complainant appeared at one of Corporation B's middle schools and stated that the Student was in the seventh grade. School personnel referred the Complainant to one of Corporation B's high schools, where the Complainant was referred to Corporation B's Alternative School. The Student began attending Corporation B's Alternative School on August 30, 2007. Communication with Corporation B's Alternative School staff revealed that although there are ongoing concerns about the Student's consistent and timely arrival at school, she is attending the Alternative School.
10. According to Corporation B's alternative program staff, a school initiated request for an educational evaluation has been filed and will be conducted in the near future to determine the Student's eligibility for special education services. Corporation A never initiated an educational evaluation for the Student.

CONCLUSION:

Findings of Fact #5, #6, #8, and #10 demonstrate that although Corporation A has policies and procedures for child identification and evaluation in writing, these procedures are not being consistently and effectively implemented; therefore, a violation of 511 IAC 7-25-2(a) and (b)(4) is found.

Findings of Fact #2, #3, and #8 demonstrate that although the Student has attended Corporation A somewhat inconsistently over a period of years, there has been a clear history of academic concern represented by the Student's history of grade retentions, low attendance, and general difficulty in the school setting; therefore, a violation of 511 IAC 7-25-2(b)(3) 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:

The Indianapolis Public Schools shall send a written memorandum to all Donnan Middle School personnel, including principals, general education teachers, special education teachers, and administrative staff, responsible for student enrollment. The overarching goal of the memorandum is to reiterate the importance of child identification and evaluation procedures. The memorandum should include, but is not limited to, discussion of Article 7 requirements for child identification, Corporation policies and procedures regarding the evaluation process, and triggers for student referral, including parental suggestion (both written and oral) and student academic and behavior

patterns indicating a potential need for services. The School shall submit to the Division the written memorandum and a list of school staff who received it **no later than December 20, 2007.**

~~Indianapolis Public Schools shall conduct an in-service training with all building principals, who in turn, will be individually responsible for holding an in-service training with all general education teachers and administrative personnel responsible for student enrollment in each principal's respective school, whether elementary, middle, or high school. The overarching goal of these trainings is to reiterate the importance of child identification and evaluation procedures. This in-service should serve as a reminder that "[a]nyone who knows of a child living in IPS boundaries who may be identified as eligible for special education services must take action on behalf of that child by contacting the IPS special education office" per Indianapolis Public Schools' own manual of policies and procedures for special education.~~

~~Indianapolis Public Schools shall submit an agenda for the in-service training prior to the in-service's occurrence to the Division of Exceptional Learners for Division approval. This agenda should include, but is not limited to, discussion of Article 7 requirements for child identification, Corporation policies and procedures regarding the evaluation process, and triggers for student referral, including parental suggestion (both written and oral) and student academic and behavior patterns indicating a potential need for services. This agenda shall be submitted to the Division no later than October 26, 2007. Indianapolis Public Schools shall conduct all in-services at the building levels, led by principal and special education staff, and shall submit to the Division of Exceptional Learners an individual agenda, list of general education staff and administrative personnel responsible for student enrollment who attended the trainings no later than December 20, 2007.~~