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

## *COMPLAINT INVESTIGATION SUMMARY*

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| COMPLAINT NUMBER: | CP-273-2008 |
| COMPLAINT INVESTIGATOR: | Jane Taylor-Holmes |
| DATE OF COMPLAINT: | October 9, 2007 |
| DATE OF REPORT: | October 31, 2007 |
| REQUEST FOR RECONSIDERATION: | N/A |
| DATE OF CLOSURE: | December 4, 2007 |

**COMPLAINT ISSUES:**

Whether the Indiana School for the Deaf violated:

511 IAC 7-27-7(a) by failing to implement the Student's individualized education program (IEP) as written, specifically by:
(a) failing to follow the Student's reading and writing goals as stated in his IEP; and
(b) placing the Student in the Student Responsible Center (SRC).

511 IAC 7-21-2(a) by failing to ensure that the Student's teacher of record (TOR) is licensed in the area of the student's disability.

**FINDINGS OF FACT:**

1. The Student is 16 years old, and the IEP lists his primary exceptionality as that of multiple disabilities, with a secondary exceptionality of hearing impairment. The Student attends the School, which is a state school for the deaf.

2. The Student's IEP, dated November 29, 2006, and in effect when the complaint was filed, contains a reading and a writing goal. Both goals state the Student "will improve" these skills through the objectives listed under the respective IEP goals.

3. The TOR wrote in the Observation/Progress Report, dated October 12, 2007, that the "first quarter has been a lot of reviewing of mathematics and language arts traits – focusing at the 1st and 2nd grade level." He wrote that the Student "began at a higher level such as cursive writing…and reading ability – however, it was found that he needed more time reviewing to remember his coursework." The TOR also explained that the Student's "language arts development – the ability to read sentences and explain in ASL, to be able to comprehend and implement simple instructions and to be able to write simple and basic requests in sentences" were areas "in progress." The TOR further wrote that the Student's "academics in the first quarter have been one of review and reflection with the past two weeks of actual independent implementation."

4. The case conference committee (CCC) met on April 20, 2007, to discuss extended school year services (ESY) for the student. The CCC notes state that the student "has a history of regression." The areas of focus listed are "vocabulary and reading related to job skills" and "focus on building vocabulary related to job skills and sight words; he has difficulty retaining words…"

5. The Student had a behavioral intervention plan (BIP), dated November 22, 2005, which was entitled Behavior Plan. This Behavior Plan identified pushing/shoving, punching/slapping, shouldering people, kicking, grabbing hair/clothes, and pulling/jerking as behaviors that would result in placement in the SRC.

6. The Principal submitted the Student's BIP that was in effect at the time the complaint was filed. This

BIP was entitled Classroom Behavior Plan, and was dated 2006-2007. This Classroom Behavior Plan did not include using the SRC as a means of addressing any of the student's maladaptive behaviors. This Classroom Behavior Plan also made no reference of any kind that prohibited placing the student in the SRC.

7. The student's IEP, dated November 29, 2006, and April 20, 2007, and submitted by the Principal as the IEP in effect at the time of the complaint, did not include using the SRC as a means of addressing any of the student's maladaptive behaviors. This IEP also did not prohibit placing the student in the SRC.

8. The CCC notes from the meeting held on April 20, 2007, to discuss ESY, state "grandparents are in agreement with the behavior plan."

9. The CCC met on October 16, 2007, (after the complaint was filed) and wrote another BIP which was entitled Classroom Management Plan. The Classroom Management Plan states aggressive behaviors (using body parts to hurt peers or adults) will result in placement in the SRC.

10. Page 69 of the School's Parent/Student Handbook for the 2007-08 (Handbook) instructional year includes the provision of the SRC, which was formally referred to as detention hall. This provision allows any teacher to send a student to the SRC for disruptive and inappropriate behavior. An incident report must also be completed when utilizing the SRC.

11. The Handbook states that a student "serves his/her time in the SRC from 3:15 p.m., up to 4:00 p.m. He/she may occasionally serve their SRC time earlier, depending upon the certain situations."

12. The Student has incurred six Incident Reports since the beginning of the 2007-08 instructional year. Three Incident Reports resulted in placement in the SRC. On August 29, 2007, the Student served two hours in SRC for grabbing and twisting another student's arm. This placement began at 9:00 a.m. On August 31, 2007, the Student was placed in the SRC for one hour and 13 minutes for pushing a teacher, and also grabbing that teacher's arm and shoulder. This placement began at 2:00 p.m. On October 3, 2007, the Student was placed in the SRC for one hour and 20 minutes for slapping another student's arm. This placement began at 3:30 p.m.

13. The Complainant states in the Complaint that the Student has been placed in the SRC "at least four or five or more" times this instructional year.

14. The Student's TOR possesses an Emergency Instructional Permit issued by the Indiana Department of Education on September 13, 2007. This Emergency Permit expires June 30, 2008. The content area is Deaf and Hard of Hearing.

**CONCLUSIONS:**

1. Findings of Fact #2, #3, and #4 indicate the student has been working on reading and writing skills; however, since the beginning of the instructional year he has needed more time to review his coursework in order to retain the information. Further, the case conference committee recognized this educational need in the spring of 2007, when considering ESY. No violation of 511 IAC 7-27-7(a) is found with regard to the School failing to implement the Student's reading and writing goals as stated in his IEP.

2. Findings of Fact #12 and #13 indicate that the student was placed in the SRC three times since the beginning of the 2007-08 instructional year. Finding of Fact #5 indicates that the Student had a previous BIP that allowed for placement in the SRC. Finding of Fact #9 indicates that the Student's most recent BIP, written during the course of this investigation also allows for placement in the SRC. Findings of Fact #6 and #7 indicate that both the BIP and the IEP, in effect at the time the complaint was filed, did not include any reference to using or not using the SRC as a means of addressing the student's maladaptive

behaviors. Finding of Fact #8 indicates that the Complainant was in agreement with that particular BIP. However, Findings of Fact #10 and #11 indicate that placing students in the SRC is used by the school as a prescriptive means to address any disruptive and inappropriate behavior exhibited by any student attending the School. No violation of 511 IAC 7-27-7(a) is found with regard to the School failing to implement the Student's individualized education program (IEP) as written, specifically by placing the SRC.

3. Finding of Fact #14 indicates that the Student's TOR is properly licensed in the Student's area of exceptionality. No violation of 511 IAC 7-21-2(a) is found with regard to the School failing to ensure that the Student's TOR is licensed in the area of the student's disability.

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