

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-288-2008
COMPLAINT INVESTIGATOR:	Susan Reimlinger
DATE OF COMPLAINT:	October 24, 2007
DATE OF REPORT:	December 5, 2007
REQUEST FOR RECONSIDERATION:	No
DATE OF CLOSURE:	March 12, 2008

COMPLAINT ISSUES:

Whether the Anderson Community School Corporation and the Anderson Area Special Education Cooperative violated:

511 IAC 7-25-2(a) by failing to implement the School's written child identification procedures that ensure the location, identification, and evaluation of students who are in need of special education and related services at Anderson Center - St. John's Health System.

511 IAC 7-27-7(a) by failing to implement the individualized education programs (IEPs) of students placed at Anderson Center - St. John's Health System.

511 IAC 7-21-2(a) by failing to ensure that an appropriately licensed or certified teacher provides or supervises special education and related services at Anderson Center - St. John's Health System.

An extension of time was granted until November 30, 2007. A second extension of time was granted until December 5, 2007, to obtain more information about the Facility's program and the School's service delivery.

FINDINGS OF FACT:

1. The complaint is filed on behalf of students with disabilities residing at the private residential facility (the Facility). The Facility accepts students from the ages of 11-18 that have a low average to average I.Q.
2. The Complainant alleges that procedures for identification of students who are or who might be eligible for special education and related services, and who reside at the Facility located within the geographic jurisdiction of Anderson Community Schools (the School), do not appear to be in place. The special education director (Director) reports that the special education cooperative does not have any formalized procedures, from the point of child identification through implementation of individualized education programs (IEPs), related to this Facility. During this complaint investigation, discussion between the School and the Facility began in order to develop formal procedures.
3. The Complainant alleges that the IEPs of students residing at the Facility are not being implemented. The Director reports that IEPs are difficult to obtain due to incomplete information provided from the Facility, and acknowledges that services have not been delivered this fall. The procedures that are in the process of being developed will address the method of obtaining student records, determining which students are or might be eligible for

special education services, and establishing a method of service delivery.

4. The Complainant alleges that there is not an appropriately licensed or certified teacher providing services at the Facility. The Facility does not provide any educational services to any of its residents. For at least the past 7 years, the Facility has had an arrangement with the School in which the School provided a teacher at the Facility. The Director reports that there is no formal written agreement for provision of educational services and that the non-formalized arrangement of a teacher from the School teaching on grounds last spring was not continued this fall due to the School's budget cuts. Documentation indicates that the School assigned a teacher to provide instruction in the Facility as of October 9, 2007. This teacher's license is "general elementary 1-6 7/8 non-departmental." While documentation indicates that a teacher of record (TOR) is assigned to the Facility, no documentation was provided to show the TOR fulfilled the TOR's duties pursuant to 511 IAC 7-17-72 at the Facility. The TOR's life license is "secondary mentally retarded and emotionally disturbed K-12."

DISCUSSION:

Indiana Code 20-33-2-6 requires that a student must attend school beginning with the school year in which the student becomes seven (7) years of age and continuing until the student graduates, becomes eighteen (18) years of age, or becomes sixteen (16) years of age and meets the requirements of I.C. 20-33-2-9. When a child is placed in an institution or facility by court order, it is unlawful for a person operating or responsible for that institution or facility to fail to ensure that a child under the person's authority attends school as required. Each day of violation constitutes a separate offense. I.C. 20-33-2-29. An action to enforce this section may be brought by the State Attendance Officer.

Further, a student who is placed in a private or public health care facility or child care facility by court order may attend school in the school corporation in which the facility is located. If that school corporation is not the student's school corporation of legal settlement, the school corporation of legal settlement shall pay the transfer tuition of the student. I.C. 20-26-11-8.

All students placed at the Facility, whether eligible for special education services or not, must be provided with instruction equivalent to that provided in the public school. The Facility may elect to provide the education, but if it does not do so it is responsible to see that the students in its care are enrolled in the School and receive as public school education. For those students who are, or may be eligible for special services, the School must comply with the requirements of Article 7.

CONCLUSIONS:

1. Finding of Fact #2 indicates that there are no formalized child identification procedures in place for students placed at the Facility. Therefore, a violation of 511 IAC 7-25-2(a) is found.
2. Findings of Fact #2 and #3 indicate that procedures are not in place to identify students who are or might be eligible for special education and what IEPs must be implemented. Finding of Fact #3 indicates that the School acknowledges that students' IEPs have not been implemented this school year. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 indicates that the teacher the School provided for the Facility is not licensed beyond the 8th grade level in general education and has no license for special education. Finding of Fact #4 indicates that the TOR has a life license in "secondary mentally retarded and emotionally disturbed K-12." The School failed to verify that an appropriately licensed TOR was in place for all students, and the teacher that the School provided the Facility is not appropriately licensed. Therefore, a violation of 511 IAC 7-21-2(a) is found.

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

CORRECTIVE ACTION:

1. Ensure that the School has a system in place for child find - identifying known or potential special education students by developing a formal organizational method to track the arrival of residents and to determine their educational status and need for a case conference committee meeting. Commit the system to formal written procedures. Train facility and the School staff about the system and procedures. Documentation of the tracking method and procedures shall be submitted to the Division by February 29, 2008. Documentation of training method and list of participants shall be submitted to the Division **no later than March 28, 2008.**
2. Ensure that for all students in residence at this facility who have an IEP that their IEP is being implemented. A list of all students in residence as of January 31, 2008, and a copy of each IEP as applicable, shall be submitted to the Division **no later than February 29, 2008.**
3. Ensure that personnel who provide and/or supervise the provision of educational services for the facility residents are appropriately licensed or certified. Also, ensure that a system is in place to track the provision and supervision of special education and related services, by date. Documentation of licensure and of the system shall be sent to the Division **no later than January 31, 2008.**

Because the concerns raised in this complaint may implicate compulsory attendance issues, a copy of this Complaint Investigation Report is being provided to the State Attendance Officer. Any complaint concerning a failure to comply with compulsory attendance requirements should be referred to Mr. Gaylon Nettles, State Attendance Officer, Indiana Department of Education, Room 229, State House, Indianapolis, IN 46204.