

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-322-2008
COMPLAINT INVESTIGATOR: Bobbie Ritz
DATE OF COMPLAINT: January 18, 2008
DATE OF REPORT: February 15, 2008
REQUEST FOR RECONSIDERATION: Yes/March 31, 2008
(Report not changed)
DATE OF CLOSURE: April 14, 2008

COMPLAINT ISSUES:

Whether the Fort Wayne Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to implement the behavioral intervention plan (BIP).

FINDINGS OF FACT:

1. The Student, thirteen years old, is identified as a student with a mild mental disability, and has been determined eligible for special education and related services.
2. The case conference committee (CCC) has convened on the following dates: May 16, 2007, October 24, 2007, November 19, 2007, and January 8, 2008. At each CCC meeting the Student's FBA and BIP were reviewed and revised. The Complainant was included in the development of the Student's BIP and signed in agreement with the CCC recommendations including eligibility and services.
3. Although School A is the home school of the Student, School B is within the Fort Wayne Community School district as well. Per the Complainant's request, the Student was accepted to School B from School A as a welfare and adjustment transfer on September 26, 2007, due to the Student having difficulties with two teachers at School A. Per the Complainant's request, the Principals of the involved schools verbally agreed to the welfare and adjustment transfer and acknowledged that the transfer could be revoked at the end of the grading period if the Student's behavior did not improve. FWCS does not have a form regarding a welfare and adjustment transfer.¹ The November 19, 2007 IEP indicated the Student was on Level 5 probation which allows the School to consider expulsion with future behavior occurrences as indicated in the FWCS SMART file. The SMART file is the FWCS behavior tracking and recording instrument.
4. The Student's BIPs dated May 16, October 24, and November 19, 2007, included the following preventative/proactive interventions: "assigned seating on the morning and afternoon bus; time-out in office or in the resource room; note home in planner; allow Student to request a time-out; assigned seat in the classroom, lunch, and the bus; bombard the Student with positive reinforcements as she is starting over with a clean slate. The Student has been given a self time-out pass. The pass has the number of minutes she can be out of class and where she can be. This pass is not for disciplinary purposes. It is for the Student to use as a cool off zone for her to get it together to avoid further issues."

¹ A "welfare and adjustment transfer" is a term unique to FWCS. As described by the Director of Student Services, a welfare and adjustment transfer is a verbal agreement between two school principals within the FWCS that is agreed to be in the best interest of the student. The agreement must be approved by the Director of Student Services.

5. The Student's BIPs dated May 16, October 24, and November 19, 2007, included the following behaviors to be reduced: "yelling out; yelling out 'shut up'; swearing; noncompliance with adult requests; and does not always want to do class work."
6. The Student's BIPs dated May 16, October 24, and November 19, 2007, included the following to "identify positive reinforcers/preferred activities to be used with appropriate target behaviors: positive notes home in the planner; classroom privileges (pass out papers or notebooks); candy treat; and gold slips."
7. The Student's BIPs dated May 16, October 24, and November 19, 2007, included the following consequences to deal with the occurrence of specified problem behaviors: "removal from class, time-out; referral, in-school and out-of-school suspension, being placed on a modified day; consequences per Fort Wayne Community Schools (FWCS) student rights and responsibilities behavior code."
8. The Principal, Student's Language Arts Teacher, Special Education Teacher, and Art Teacher provided examples of following the Student's BIP on numerous occasions from September 26, 2007-January 11, 2008, while the Student was enrolled at their school. Various preventative/proactive interventions were attempted with the Student. The Student was allowed to have time-out in the office to calm down and meet with school staff to discuss why she is angry, explain why the behavior is unacceptable and disruptive and will result in school sanctions, and give her acceptable options. Conferences and telephone contacts with the Complainant were made by the School, as well as letters sent home. In attempts to strengthen a positive relationship with the Student, school staff had discussions with the Student, offered compliments, candy and positive comments in the Student's planner. Special attention was given to classroom seating for the Student and she responded well when enabled to work with a peer to get caught up on late work. School staff attempted to deal with the Student's behavioral issues privately with the Student rather than single her out in class.
9. The Complainant alleges the school staff at both middle schools are accusing her daughter of misbehaviors that she did not commit; however, no additional information was provided with respect to specific dates or incidents. During the 2007-2008 school year, while attending School A, the Student had four recorded referrals on the SMART file. Following the welfare and adjustment transfer to School B on September 26, 2007, the Student had fifteen recorded referrals on the SMART file. If the actions of the Student were considered less serious according to the FWCS student rights and responsibilities behavior code, the issue was handled with a time-out, telephone contact or conference between the Student, Complainant, and school staff, as directed by the Student's BIP. If the behaviors were more serious, such as threatening other students and habitual use of profanity, the results were more serious sanctions as indicated in the FWCS student rights and responsibilities behavior code. The Student has not reached a tenth day of suspension for the school year as of February 15, 2008.
10. The Student's last day at School B was on the last day of the quarter, January 11, 2008. The Student was re-enrolled at School A on January 14, 2008. The Student's IEP dated January 8, 2008 indicated the Student was transferring back to School A.

CONCLUSIONS:

1. Findings of Fact #2 through #9 address whether the Student's IEP was implemented as written. Finding of Fact #8 indicates the Student was provided with preventative/proactive interventions as required by the BIP. Therefore, no violation of 511 IAC 7-27-7(a) is found.

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