

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-338-2008
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	February 29, 2008
DATE OF REPORT:	March 28, 2008
REQUEST FOR RECONSIDERATION:	No
DATE OF CLOSURE:	June 25, 2008

COMPLAINT ISSUES:

Whether the Gary Community School Corporation 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) with respect to ensuring that the student is not physically restrained by school security or other school personnel.

FINDINGS OF FACT:

1. The Student, 18 years old, is identified as a student with an emotional disability, and has been determined eligible for special education and related services.
2. The Student's case conference committee convened on December 12, 2007. The Student's revised IEP, dated December 12, 2007, indicates that the Student's behavior impedes his learning and the learning of others. The IEP contains a revised BIP.
3. The Complainant specifically alleges that the Student's BIP was not implemented during an incident that took place at school on February 12, 2008. The school supervisory aide for tardiness (a school security officer) escorted the Student to the Assistant Principal's office for being tardy and being in an unauthorized area of the school building without permission. The Student became agitated upon being questioned and then became angry. The Student was promptly suspended for poor behavior, including the use of profane language. Shortly thereafter, a physical confrontation took place between the Student and the security officer in the office doorway. According to the Complainant, the BIP dated November 4, 2005 (when the Student was in 9th grade) should have been implemented and it states, "Student should not be physically restrained by security or other school personnel." The Complainant believes the security officer acted unprofessionally and should be terminated. The School maintains that the security officer was using his hands in self-defense.
4. The revised BIP dated December 12, 2007 does not address physical restraint, nor does it address situations when the Student acts inappropriately with school administrators or other school personnel. The BIP was revised to address the Student's truancy, falling behind in school due to being easily distracted, and use of inappropriate aggressive behaviors with peers.

CONCLUSION:

Findings of Fact #2 through #4 indicate that the School did not fail to implement the Student's BIP during the incident that occurred on February 12, 2008. It is beyond the scope of a complaint

investigation to determine whether and to what extent physical restraint was used by school personnel. The Student's BIP dated December 12, 2007 does not address physical restraint, and does not identify the type of situation described in Finding of Fact #3 between the Student and an administrator. Therefore, a violation of 511 IAC 7-27-7(a) is not found.

NOTE: Both parties may convene the case conference committee at any time to review and revise the BIP if necessary to address particular behaviors and identify specific intervention strategies or other accommodations and supports.

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