

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-342-2008
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	March 6, 2008
DATE OF REPORT:	April 4, 2008
REQUEST FOR RECONSIDERATION:	No
DATE OF CLOSURE:	June 25, 2008

COMPLAINT ISSUES:

Whether the Veritas Academy and the Virtual Special Education Cooperative violated:

511 IAC 7-29-1(l) by failing to follow suspension procedures required by IC 20-33-8-18 when suspending a student with a disability.

511 IAC 7-29-6(a) by failing to notify the parent of the school's decision to remove a student with a disability from the student's current placement for a behavior that violated the school's rules of conduct, and by failing to provide the parent with a copy of the notice of procedural safeguards no later than the date on which the school's decision was made.

FINDINGS OF FACT:

1. The Student, 13 years old, is identified as other health impaired (OHI), and has been determined eligible for special education and related services.
2. On February 8, 2008, upon investigating several stabbing incidents involving the use of ink pens that had been converted into weapons by inserting a nail into the pen (referred to as "shanks"), the parents of seven students were contacted by the Director of Education and informed that the students would be suspended from school beginning February 11, 2008. The Student was one of the seven students suspended. On February 12, 2008, each of the parents was contacted by telephone in order to schedule individual meetings with each on February 13, 2008. On February 12, 2008, the Complainant (parent) went to the School and participated in an unscheduled meeting with the Director of Education to discuss the situation further. The Director of Education met with each of the parents and students on February 13, 2008, to discuss each student's individual involvement in the incidents. The parents and Complainant were then informed that the School was suspending the students for five days pending a decision of whether to expel the students. A letter notifying each of the parents of this decision was sent out on February 18, 2008.
3. Following these meetings, the Complainant withdrew the Student from school on February 15, 2008. The Complainant alleges that the School failed to explain: (1) that a manifestation determination must be conducted to determine whether the Student's behavior was a manifestation of his disability; and (2) even if the Student was expelled, the Student would still receive services. In addition, the Complainant disagrees with the School's investigation of the incident and believes that it was due to a lack of adult supervision. The Complainant acknowledges that a copy of the Notice of Procedural Safeguards was offered at the meeting on February 13, 2008, but she declined as she had several copies at home.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School did not fail to follow the required suspension procedures. Finding of Fact #3 shows that the Complainant disagrees with the School's investigation of the incident and the School's decision to expel the Student. Therefore, a violation of 511 IAC 7-29-1(l) is not found.
2. Finding of Fact #2 indicates that the School did not fail to notify the parent of its decision to suspend the Student pending expulsion. Finding of Fact #3 indicates that the Complainant declined an offer to receive a copy of the Notice of Procedural Safeguards at the meeting on February 13, 2008. Therefore, a violation of 511 IAC 7-29-6(a) is not found.

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