

## COMPLAINT INVESTIGATION SUMMARY

**COMPLAINT NUMBER:** 1707.01  
**COMPLAINT INVESTIGATOR:** Brenda Alyea  
**DATE OF COMPLAINT:** March 7, 2001  
**DATE OF REPORT:** April 6, 2001  
**REQUEST FOR RECONSIDERATION:** yes - no changes  
**DATE OF CLOSURE:** May 4, 2001

**COMPLAINT ISSUES:**

Whether the Penn-Harris Madison School Corporation and the Mishawaka-Penn-Harris-Madison Joint Services violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically, failing to implement the incremental plan for the student's behavior.

511 IAC 7-27-7(b) with regard to the school's alleged failure to ensure the student's teacher of record monitored the implementation of the student's IEP.

**FINDINGS OF FACT:**

1. The student is sixteen years old and attends high school as a ninth grader. He is eligible for special education and related services as a student with an other health impairment.
2. The student's current IEP, dated May 22, 2000, indicates the student's behavior does not impede his learning or that of other students, but states the student cannot follow General Education discipline procedures. The IEP includes a *Contingency Plan* (Plan) to address verbal and physical aggression toward self and others. The Plan states the student has a history of verbal and physical aggression. The Plan document lists a number of intervention options that may "checked" to be used with a student during episodes of verbal or physical aggression. The Plan does not include truancy as one of the behaviors for which these interventions may be used, and does not indicate that the interventions are to be used in any particular sequence.
3. The Plan attached to the Student's IEP has a number of intervention options checked, indicating that they may be used when the Student exhibits verbal or physical aggression. One of the options checked on the Student's Plan is out-of-school suspension.
4. The student was suspended for three days for fighting beginning on March 6, 2001. During the investigation of the complaint, the student was assigned Saturday School for truancy.
5. The Student's parents believe the Plan was to be implemented sequentially, beginning with a verbal warning for the first offense of fighting and progressing incrementally through the list of eighteen options.
6. As part of monitoring the implementation of the IEP, the teacher of record met or had phone conversations with the following since August 29, 2000:

Student	-	7 times (face to face)
Parent	-	8 times (including two conferences)
Teachers	-	7 times
Learning Strategies Teacher	-	frequent contact (shares office)

**CONCLUSIONS:**

1. Findings of Fact #2, #3, and #4 reflect that the Student's current IEP includes a contingency plan of interventions for verbal and physical aggression. The Plan does not require the interventions to be implemented in a sequential manner, nor does it address truancy behavior. Out-of-school suspension is one of the interventions that may be used with this Student. The Student was suspended for fighting and was assigned Saturday school for truancy. Finding of Fact #5 indicates the parents believed the Plan's interventions were to be implemented in a sequential manner. The out-of-school suspension is consistent with the Student's Plan. Assignment to Saturday school for truancy plan is not inconsistent with the Plan. Therefore, no violation of 511 IAC 7-27-7(a) is found.
2. Findings of Fact #2, #3, and #4 reflect that the Student's IEP, specifically the contingency plan for behavior, was implemented as written. Finding of Fact #6 indicates that the Teacher of Record has monitored the Student's IEP and has had a number of contacts with the Student's teachers and parents. Therefore, no violation of 511 IAC 7-27-7(b) is found.

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

DATE REPORT COMPLETED: April 6, 2001