

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2224.05  
COMPLAINT INVESTIGATOR: Paul Ash  
DATE OF COMPLAINT: February 24, 2005  
DATE OF REPORT: March 24, 2005  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: May 6, 2005

**COMPLAINT ISSUES:**

Whether the School City of Hammond and the School City of Hammond violated:

511 IAC 7-27-7( c ) (2) failure to implement an IEP within 10 instructional days of case conference meeting for a student transferring from another state; and  
511 IAC 7-27-4(a)(5) failure to convene a CCC within 10 instructional days for a student enrolled from another state

**FINDINGS OF FACT:**

1. The student is 17 years old, identified as a student with a learning disability and enrolled as a 10<sup>th</sup> grader in Saginaw (Michigan) High School during part of 2003-04 school year.
2. On March 4, 2004 the student withdrew from Saginaw High School, reportedly to enroll in the Ruben Daniels Alternative High School in Saginaw, Michigan. An IEP Team Meeting was conducted for the student on the same date.
3. Ruben Daniels Alternative High School has no record of the student enrolling or withdrawing from the school.
4. The Complainant reports the student lived with the Complainant's family from the time of withdrawal from Saginaw High School (March 4, 2004) until arrival at the Atterbury Job Corps Center on August 3, 2004. The student was not enrolled in any educational program from March 4, 2004 to August 3, 2004.
5. Atterbury Job Corps, Edinburgh, IN, reports the student enrolled/arrived on August 3, 2004 and was "separated" on September 28, 2004 due to unspecified "issues."
6. The Job Corps reports that special education services and "free appropriate public education" (FAPE) are not provided, but there are levels of instruction geared to a student's ability and aptitude.
7. Hammond High School reports the student enrolled on September 28, 2004 as a general education 11<sup>th</sup> grade student. Educational records were requested from Saginaw High School via FAX on September 28, 2004. There is a "?" after the "11<sup>th</sup> grade" designation on the request for record form indicating uncertainty as to the student's grade status.
8. The Hammond High School Guidance Office reports the "Home Language Form" completed for the student on September 28, 2004 upon enrollment in Hammond High School indicates the student was identified as a "special education student" at Saginaw High School.

9. On November 24, 2004, Hammond High School again requested additional records, specifying "special education" records were needed, from Saginaw High School.
10. Hammond contends that the school was unaware the student had a previous eligibility as a student with a disability until November 24, 2004, at which time additional "special education" records were requested of Saginaw High School via FAX.
11. A case conference committee met within four instructional days of the November 24, 2004, realization that the student was previously identified as a student with a disability in another state.
12. A referral for evaluation was initiated by the case conference committee and the evaluation process is scheduled to conclude within 60 instructional days of the case conference committee meeting (March 15, 2005). On March 10, 2005 the case conference committee met and the Student was found eligible as a student with a Learning Disability.

### **CONCLUSIONS:**

Findings of Fact #1 through #6 indicate that though the student was previously identified as a student with a disability in another state, the student did not transfer from an out-of-state school to an Indiana school with an IEP. Rather, the student was enrolled as a student with a disability in another state who effectively "dropped-out" of school, enrolled in the Job Corp program, and then enrolled in an Indiana School as a general education student. Thus, there is no violation found with regard to conducting a case conference and implementing an IEP for a student transferring to an Indiana school from out-of-state [ 511 IAC 7-27-7 ( c )(2)].

Finding of Fact # 8 indicates the School did have knowledge that the student was previously identified as a student with a disability as indicated on the "Home Language Form." Findings of Fact # 9 and 10 indicate the School did not affirmatively act to secure the student's special education records until November 24, 2004, and Finding of Fact # 11 indicates a case conference was held within four (4) instructional days to initiate a referral for evaluation. Because the School had knowledge the student had previously been identified as a student with a disability upon enrollment on September 28, 2004, the school should have immediately acted to secure the previous IEP and convene the case conference so all or part of the previous IEP could have been implemented or a referral for evaluation or diagnostic teaching evaluation immediately implemented. Thus, a violation of 511 IAC 7-27-4 (a)(5) has occurred.

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

### **CORRECTIVE ACTION:**

1. The student was found eligible as a student with a disability on March 10, 2005. However, the student should have been identified much earlier in the school year, shortly after enrollment in the School. Thus, the case conference committee for the student is to reconvene by April 24, 2005, to address: a) whether the student should be given additional time during the summer to complete any incomplete courses taken during the first semester and whether he may require additional time to complete any courses he is taking during this semester; and 2) consider whether extended school year services are needed by the student during summer 2005. Documentation of this conference is to be submitted to the Division by May 2, 2005.
2. The School is also to develop procedures to ensure that enrollment procedures assure communication with special education. The "Home Language Form" indicated the student was a "special education student" at his previous Michigan school but this information apparently was not

shared with, or not acted on by, special education. A description of these procedures is to be submitted to the Division by May 2, 2005.