

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2240.05
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	March 24, 2005
DATE OF REPORT:	April 20, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	June 7, 2005

COMPLAINT ISSUES:

Whether the Duneland School Corporation and the Porter County Education Interlocal violated:

511 IAC 7-29-6 by failing to conduct a manifestation determination within the required 10 instructional days of the school's decision to remove a student from his special education placement.

511 IAC 7-25-4(b) by failing to convene a case conference committee meeting within 60 instructional days of the date that the school received a written request for an educational evaluation from the parent.

FINDINGS OF FACT:

1. The Student is identified as having an emotional disability and has been determined eligible for special education and related services.
2. A manifestation determination was conducted at the Student's case conference committee (CCC) meeting held on November 8, 2004, for a behavior that occurred on November 3, 2004. By then, the Student had reached the allowable 10 days of suspension as stated in 511 IAC 7-29-1. The Case Conference Report indicates that the CCC discussed a number of behaviors of concern that had occurred over the previous months, specifically behaviors of verbal and physical aggression. The Student's behavioral intervention plan was also reviewed and discussed pursuant to 511 IAC 7-29-5. The CCC was in unanimous agreement that these behaviors are not a manifestation of the Student's disability. Rather than be referred for expulsion following this CCC, the Assistant Principal decided to give the Student one more chance. Seven instructional days later, on November 17, 2004, the Student engaged in the same behaviors. The Assistant Principal immediately proceeded with a request to expel the Student. A second manifestation determination was not conducted. The Student was subsequently expelled on December 10, 2004.
3. The School acknowledges that the Student's initial educational evaluation was completed and a CCC convened within 66 instructional days. The Parent submitted a written request for evaluation that was received by the School on January 5, 2004. A multidisciplinary evaluation team member calculated the 60 instructional day timeline from the date of the meeting with the Parent to discuss the evaluation held on February 3, 2004, rather than the date of the Parent's original letter of request. The initial CCC meeting was held on April 19, 2004.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School failed to conduct a manifestation determination within the required 10 instructional days of the School's decision to remove the Student from his special education placement. The School did not convene the Student's CCC to conduct a manifestation determination at any time, and not within 10 instructional days, of its decision to remove the Student from his placement for behaviors that occurred on November 17, 2004. Therefore, a violation of 511 IAC 7-29-6 is found.
2. Finding of Fact #3 indicates that the School failed to convene a CCC meeting within 60 instructional days of the date that the School received a written request for an educational evaluation from the Parent. Therefore, a violation of 511 IAC 7-25-4(b) is found.

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

CORRECTIVE ACTION:

The Duneland School Corporation and the Porter County Education Interlocal shall:

1. Convene the Student's CCC to address whether and to what extent compensatory educational services are required for the time during which the Student was removed from his placement in addition to conducting the manifestation determination. A copy of the CCC Report shall be submitted to the Division no later than May 27, 2005.
2. Send a written memorandum to school administrators and all relevant special education personnel stating the requirements of 511 IAC 7-25-4(b) and 511 IAC 7-29-6. A copy of the memorandum and a list of all school personnel who receive it shall be submitted to the Division no later than May 27, 2005.