

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2243.05  
COMPLAINT INVESTIGATOR: Brian Simkins  
DATE OF COMPLAINT: April 8, 2005  
DATE OF REPORT: May 4, 2005  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: June 7, 2005

**COMPLAINT ISSUES:**

Whether the MSD Boone Township and the Porter County Education Interlocal violated:

511 IAC 7-27-7(c)(3) by failing to implement the student's individualized education program (IEP) immediately upon enrollment from another school district within the state.

During the course of this investigation, an additional issue was identified:

511 IAC 7-27-4(a)(5) by failing to convene a case conference committee meeting within 10 instructional days of the enrollment of a student who has been receiving special education in another district within the state.

**FINDINGS OF FACT:**

1. The Student has been identified as a student with an other health impairment and a communication disorder and has been determined eligible for special education and related services.
2. The Student's last effective IEP is dated May 23, 2001. The Student was found eligible for special education and related services through the Northwest Indiana Special Education Cooperative (NISEC) and the Hanover Community Schools. In June of 2001, the Student was determined by the Juvenile Court of Lake County Indiana to be "a child in need of services," (CHINS). Subsequently, the Student was placed at the Thelma Marshall Children's Home in Gary, Indiana, from June 7, 2001 through October 8, 2001. Then, the Student was placed at a residential facility called The Ark Program in Wauwatosa, Wisconsin, from October 8, 2001, to December 30, 2003. The Student was then placed at a residential facility called Christian Haven in Wheatfield, Indiana, from December 30, 2003, to August 12, 2004. Finally, the Student was placed at Holy Cross School at Gibault, Inc. in Terre Haute, Indiana, from August 12, 2004, to December 22, 2004. At no time while the Student was placed in these facilities did the Student receive special education and related services pursuant to the IEP dated May 23, 2001.
3. The Student was enrolled in school on February 9, 2005. The School acknowledges that it was aware the Student had previously been determined eligible for special education on or about January 24, 2005, through telephone contact made by the Complainant. The School initially offered to convene the Student's move-in case conference committee (CCC) on February 23, 2005, once all of the Student's records were transferred. The CCC was held on March 1, 2005, after 10 instructional days had elapsed, and a diagnostic teaching evaluation and interim IEP with homebound services was written

and signed by the Complainant indicating agreement. The Student had remained at home until this diagnostic IEP was written and agreed upon on March 1.

## **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that though the Student was previously identified as a student with a disability in another district within the state, the Student's IEP dated May 23, 2001, had never been implemented or revised in over three years as the Student was placed by court order to several different residential facilities. Although the School had knowledge of the Student's special needs shortly before he was enrolled on February 9, 2005, the Student's previous IEP from NISEC had expired and no longer met the Student's needs. Therefore, a violation of 511 IAC 7-27-7(c)(3) is not found with respect to implementing the Student's IEP immediately upon enrollment.
2. Finding of Fact #3 indicates that the School failed to convene a CCC within 10 instructional days for a student enrolled from another district within the state. The School knew about the Student's special needs and recent educational history before the Student was enrolled. The Student's move-in CCC convened on March 1, 2005, more than 10 instructional days from the day of enrollment on February 9, 2005. Up until then, the Student remained at home. Given the Student's educational situation (see Finding of Fact #2 and Conclusion #1 above), the School should have immediately convened the Student's CCC and developed a diagnostic teaching evaluation, see 511 IAC 7-17-23, and interim IEP to take effect right away. If the parent could not attend in person, the School may offer the parent the opportunity to participate by telephone according to 511 IAC 7-27-3(h). Therefore, a violation of 511 IAC 7-27-4(a)(5) is found.

Finding of Fact #3 also indicates that the School did develop a diagnostic teaching evaluation/interim IEP at the CCC convened on March 1, 2005. This has been submitted to the Division.

**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:**

MSD Boone Township and the Porter County Education Interlocal shall:

Send a written memorandum to all school administrators and relevant special education personnel advising on how schools can comply with the requirements of 511 IAC 7-27-4(a)(5) for students who move in from another state or district within the state who have special needs and a complicated educational history. A copy of the memorandum and a list of all who receive it shall be submitted to the Division no later than June 3, 2005.

Also, convene the Student's case conference committee to determine whether and to what extent compensatory services shall be provided to make up the time lost between February 9, and March 1, 2005. A copy of the Case Conference Report and revised IEP shall be sent to the Division no later than June 3, 2005.