

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2276.06
COMPLAINT INVESTIGATOR:	Alexandra Curlin
DATE OF COMPLAINT:	September 16, 2005
DATE OF REPORT:	October 14, 2005
REQUEST FOR RECONSIDERATION:	yes/not revised November 2, 2005
DATE OF CLOSURE:	November 30, 2005

**COMPLAINT ISSUES:**

Whether the Tri-Creek School Corporation and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-27-11 (a) and (b), by creating impediments to accessing instruction for a student with a chronic illness.<sup>1</sup>

**FINDINGS OF FACT:**

1. The Student is not identified as a student with a disability pursuant to Article 7 or the Individuals with Disabilities Education Improvement Act; however, the Student does have a chronic illness- asthma.
2. The School provides Homebound Instruction for a student “who is unable to attend school full time due to temporary or chronic illness or injury.”
3. According to the Homebound Procedures, in order to receive these services, the student must meet certain criteria, including the following:
  - a. A parent must provide a written statement from a physician with an unlimited license to practice medicine that includes the temporary or chronic nature of the condition and the minimum number of days of expected absence in terms of consecutive or aggregate instructional days.
  - b. The student must have a temporary illness or injury that will require the student’s absences from school for a minimum of twenty (20) consecutive days.
  - c. If the illness or injury occurs less than twenty (20) instructional days prior to the end of the school year and the student needs instruction to meet promotion or graduation requirements, the physician’s statement must indicate that the student will be unable to attend school through the end of the current school year.
4. The Procedures also state that when the School receives the written statement, the School is obligated to do the following:
  - a. Write the parents a letter that details the homebound services that will be provided to the student and includes a contact person with whom the parent will work;
  - b. Provide instruction through a teacher licensed to teach the grade level of the student; and
  - c. Keep a copy of the letter sent to the parents and the medical documentation in the student’s homebound file

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<sup>1</sup> The issue has been restated to better reflect the Complainant’s allegation.

5. The procedures further state that homebound instruction may be provided at a students' home, a hospital, or another site and may be provided in person or by any other technology system.
6. On July 26, 2005, the Student's Doctor filled out a School Corporation Certificate of Incapacity wherein he indicated that the Student had permanent acute asthma and that the School should expect irregular attendance from the Student. The Doctor additionally stated the Student would be "expected to miss more than ~~40-20~~ 10-20-30 days ~~per~~ throughout the school year." (The strikethroughs are as they appear in the documentation).
7. The School asked the Complainant to provide another Certificate because of the strikethroughs on the July 26 certificate.
8. The Complainant's advocate provided a transcript of the September 1, 2005 conference. The transcript indicates that the Principal previously told the Complainant that the Doctor's note had to be notarized. The transcript also indicates that the Principal acknowledged that there is no notary requirement and that he made a mistake.
9. On September 13, 2005, another doctor filled out an IDOE Certificate of Incapacity wherein he indicated that the Student's condition is chronic and permanent and that the Student would have irregular attendance. The Doctor wrote specifically, "chronic asthma can cause [the Student] to miss 20 or more days throughout the school year."
10. On September 29, 2005 the School held a 504 conference wherein a tentative 504 plan was developed. According to the Complainant's Advocate, the School has agreed to provide homebound services to the student when he is unable to attend school.

#### **CONCLUSIONS:**

Finding of Fact # 6 indicates there were strikethroughs on the Certificate of Incapacity filled out on July 26, 2005 that could have caused some confusion as to the extent of the Student's anticipated absence from school. Finding of Fact #9 indicates that the Student turned in a new Certificated of Incapacity that stated he had chronic asthma and would mist 20 or more days throughout the school year. Finding of Fact # 10 indicates that the School is willing to provide homebound services to the Student when he is unable to attend school. Therefore, violations of 511 IAC 7-27-11(a) and (b) are not found.

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