

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2313.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: February 17, 2006
DATE OF REPORT: March 16, 2006
REQUEST FOR RECONSIDERATION: yes/revised - April 18, 2006
DATE OF CLOSURE: May 23, 2006

COMPLAINT ISSUES:

Whether the MSD of Wayne Township and West Central Joint Services violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to implement the behavior intervention plan (BIP).

FINDINGS OF FACT:

1. The Student, 11 years old, has been identified as having an emotional disability and has been determined eligible for special education and related services.
2. The Student's IEP dated October 11, 2005, includes a Positive Behavior Support Plan that calls for school personnel to ~~"try to nonverbally redirect [the Student] or use firm but fair language in front of peers. Give him choices when redirecting and allow a wait time for a response. Allow [the Student] to privately . . . let adult know when he needs a break from the classroom."~~
Allow movement in the classroom after direct instruction and during lengthy at seat assignments, especially in the afternoon. Since [the Student] is sensitive, try to nonverbally redirect [the Student] or use firm but fair language in front of peers. Give him choices when redirecting and allow a wait time for a response. Allow [the Student] to t privately (use a card) let adult know when he needs a break from the classroom. (Emphasis added).
3. The Complainant alleged that one of the Student's teachers (General Education Teacher) yelled at him in the cafeteria and did not follow the above mentioned portion of the Student's Positive Behavior Support Plan on February 15, 2006. ~~Contrary to the information contained in the School's summary of interviews, the Teacher of Record (TOR) stated that the Student's IEP was not followed on the day in question. The TOR said that the General Education Teacher failed to use nonverbal redirection. The Paraprofessional agreed that the behavior plan was not followed in the cafeteria, and said that the General Education Teacher did not come to the Student but spoke to him loudly about four or five tables away. The Paraprofessional did not hear any choices given to the Student when she was in the area. The Student later banged his head on his desk in frustration, which caused the school nurse to contact the Complainant.~~
4. The Complainant has received Daily Behavior Reports throughout the school year detailing the Student's behavior at school. Some of the reports mention intervention strategies required by the behavior plan, such as talking to the Student about his reactions and goals, getting the Student back on task after redirection, and providing break times. The Student also has a card he can use for requesting break times.

5. On February 24, 2006, the Student's CCC met at the request of the School. The CCC revised the Student's behavior plan, and the Student now spends the whole day with the TOR and the Paraprofessional.

CONCLUSIONS:

~~Findings of Fact #3 and #4 indicate that, although intervention strategies have been used with the Student at other times, the School failed to implement the Student's IEP, specifically the Student's behavior plan, in the cafeteria on February 15, 2006. Therefore, a violation of 511 IAC 7-27-7(a) is found. However, the School has taken voluntary corrective action, as indicated in Finding of Fact #5. Finding of Fact #2 indicates the relevant portion of the Behavior Intervention Plan applies to classroom situations not cafeteria situations. In addition, it is silent as to what tone of voice should be used with the student. Therefore, no violation of 511 IAC 7-27-7(a) is found.~~

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