

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	CP-133-2007/2364.07
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	September 25, 2006
DATE OF REPORT:	October 25, 2006
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 28, 2006

**COMPLAINT ISSUES:**

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

511 IAC 7-18-2(a) by failing to provide the student with a free appropriate public education (FAPE), specifically by:

- (a) delaying the enrollment of the student when transferring from another district within the state; and
- (b) failing to provide a safe environment and by failing to provide services while the student was unable to attend school.

**FINDINGS OF FACT:**

1. The Student, 16 years old, is identified as a student with an emotional disability, and has been determined eligible for special education and related services.
2. The Complainant (parent) visited the School on July 26, 2006 to enroll the Student. The School asked the Complainant to return on July 31, 2006, the School's Open Enrollment Day. Open Enrollment was held from 7:00 AM to 7:00 PM. The School states that the Complainant did not return that day to enroll the Student. The Complainant alleges that she was there that day but was told that a special education counselor needed to be present and that a faxed copy of the Student's transcripts from the previous school were required despite the fact that the Complainant said she had a copy with her. The School states that there is no such counselor employed. The first day of school was August 9, 2006. The Student enrolled on August 18, 2006. A move-in case conference was convened on August 23, 2006.
3. The Complainant filed this complaint in part because she believes the Student is not safe at school. On August 31, 2006, the Student was involved in an altercation with other students from the School off school property and after school hours. The altercation resulted in injuries that required surgery and hospitalization. The Complainant notified the School about the incident on September 1, 2006.
4. On September 13, 2006, a meeting was held involving the Principal, the Complainant, the Special Education Coordinator, and the Student's case worker to discuss the Student's return to school. The Complainant voiced her concern that she felt the School was unsafe and that she wanted the School to pay transfer tuition for the Student to return to the school the Student attended previously. The Complainant also requested homework for the Student.
5. At the meeting held on September 13, 2006, the School proposed other options to address the Complainant's concerns. The options included: the School's Extended Day Program; the school

district's Enrichment Center; and the local alternative school. Accommodations were discussed to allow the Student to take the ISTEP+ Graduation Qualifying Exam the week of September 18, 2006, including arranging to have the exam administered at home. A case conference committee meeting was scheduled to determine the Student's placement.

6. On September 18, 2006, the School discussed with the Complainant service options for the Student. The Complainant expressed a desire for homebound services. The School informed the Complainant that it needed a physician's statement indicating that the Student's injury would preclude the Student's attendance at school for at least 20 instructional days before homebound services could begin. The Complainant did not submit the required documentation. ISTEP+ arrangements were also discussed. The School offered to have the Student specially transported to school to take the exam in a secluded setting. The Complainant refused the offer. The Student did not take the ISTEP+ exam.
7. On September 19, 2006, the Complainant came to the School to pick up the Student's homework. The Complainant alleges that as of September 20, 2006, the School had not provided any homework despite making several requests. On September 22, 2006, the Special Education Coordinator took homework assignments to the Student's home. The School cannot document providing the Student with homework before this time.
8. The Student's case conference committee convened on September 27, 2006, to determine placement, including alternative programs. Additional supports were also discussed. In addition to the alternative placement options described in Finding of Fact #6, the School offered to provide special transportation; adult supervision during passing periods, and during an alternative lunch setting at school and other non-educational times of the school day; and compensatory services to make up the days the Student missed at the beginning of the school year. The case conference committee did not discuss changing the Student's placement to a homebound setting. The Complainant refused to return the Student to school and restated her desire to have the School transfer the Student to another district and have the School pay the transfer tuition.
9. The case conference re-convened on October 4, 2006. An addendum was added indicating agreement to provide homebound services to the Student until placement and services could be agreed upon. At present, the Student has not been transferred. The Student began receiving homebound instruction on October 9, 2006. The Student is scheduled to get make-up work completed during fall break October 18-21.

## **CONCLUSIONS:**

Findings of Fact #2 through #10 address whether and to what extent the Student was provided with a FAPE:

- (a) Finding of Fact #2 indicates that the Student was enrolled after the start of the 2006-2007 school year. Finding of Fact #8 indicates that the School offered to provide compensatory services to the Student to make up those days missed at the beginning of the school year. Therefore, a violation of 511 IAC 7-18-2(a) is not found with respect to the Student's delayed enrollment.
- (b) Finding of Fact #3 indicates that the Student was involved in an incident that caused an injury that precluded the Student's attendance in school for most of September 2006 and that the Complainant does not believe the School is a safe environment. Finding of Fact #5 indicates that the School proposed several options to address the Complainant's concerns regarding the Student's safety and that the Complainant rejected all of those offers. However, Finding of Fact #7 indicates that the School did not provide services to the Student between September 1, and 22, 2006, despite the Complainant repeatedly asking for services. Therefore, with regard to the three-week gap in time where services

were not provided to the Student who was unable to come to school, a violation of 511 IAC 7-18-2(a) 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:**

MSD Wayne Township shall:

Convene a meeting to discuss the proper protocol and documentation system for ensuring that similarly situated students at the high school level will be provided a FAPE even if they are unable to attend school because of health or other reasons. The meeting shall develop procedures addressing how make-up homework will be coordinated and made available as soon as possible for students or parents to pick up. The protocol must also address the School's policies and procedures for instruction for students with injuries and temporary or chronic illnesses and how that information should be explained and provided to parents. The protocol must also address whether a case conference shall be convened immediately to discuss other placement options for similarly situated special education students including homebound placement. The meeting shall include the Director of Special Education, the Special Education Coordinator, the Principal, special education teachers and at least three general education teachers, and any other relevant school personnel the School needs to include. A copy of the meeting notes, an attendance sheet, and copy of the protocol shall be submitted to the Division no later than December 15, 2006.