

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-246-2008
COMPLAINT INVESTIGATOR: Kylee Bassett
DATE OF COMPLAINT: August 21, 2007
DATE OF REPORT: September 18, 2007
REQUEST FOR RECONSIDERATION: N/A
DATE OF CLOSURE: October 18, 2007

COMPLAINT ISSUES:

Whether the School Town of Highland and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-29-3 by failing to follow proper procedure when removing a student to an interim alternative educational setting for carrying a weapon to school, specifically regarding the school's failure to provide written notice to the Student's parent pursuant to Indiana Code 20-33-8-20.¹

FINDINGS OF FACT:

1. The Student, 16 years old, is identified as a student with an other health impairment, and has been determined eligible for special education and related services.
2. On January 31, 2007, the Student exited the school bus and a gun was observed in the Student's possession by the bus driver. On February 1, 2007, the Student was absent from school; however, the Student returned to school grounds at 3:20 p.m. that afternoon. The Student was questioned by police and he voluntarily surrendered the weapon.
3. The Student was formally suspended on February 2, 2007 pursuant to Indiana Code 20-33-8-14. A *Notice of Student Suspension Pending Expulsion* was sent to the Student's mother (the Complainant), indicating that the Student's 10-day suspension would begin on February 2, 2007 and that a written charge requesting expulsion until January 19, 2008 was filed. The Notice included the Student's signature admitting the charges as true. A written charge and request for expulsion was filed on February 2, 2007.
4. On February 12, 2007, the expulsion examiner sent a *Notice of Requested Continued Suspension from School: Right to Contest Continued Suspension* via certified mail to the Complainant. A copy of the certified mail receipt showed that the Complainant signed for delivery, indicating that she received the letter on February 14, 2007.
5. Due to winter break, School was not in session on February 16, and 19, 2007.
6. On February 20, 2007, a case conference committee (CCC) meeting was convened for the purpose of a manifestation determination conference. The CCC determined that the behavior of

¹ During the investigation, the issue was changed to better reflect the facts.

7. the Student was not a manifestation of the Student's disability. The CCC notes indicated that the principal explained to the Complainant that she did not have to sign the expulsion papers if she wanted to challenge the expulsion. The Complainant signed a *Waiver of Statutory Rights Applicable to an Expulsion* and agreed that the Student's expulsion would be effective until January 19, 2008. The CCC notes indicated that the Student would have an opportunity to be re-assessed at the beginning of August, 2007 to determine if he should be allowed back in school at an earlier date. The CCC meeting agreed that the Student would receive homebound services for the duration of his expulsion.
8. On April 18, 2007, a CCC meeting convened to review the Student's progress in his current placement. The CCC notes indicated that the Complainant was informed that "she would expect a phone call from central office in August regarding [the Student's] return to school." The School did not provide documentation regarding this phone call.
9. On July 31, 2007, the expulsion examiner sent via certified mail to the Complainant the *Notice of Review of Expulsion by Expulsion Examiner*. The letter notified the Complainant of that a review pursuant IC 20-33-8-20(b) and (c) would be conducted on August 13, 2007. The Post Office made three attempts to deliver the letter (August 3, 8, and 18, 2007). The letter was returned to the School as "unclaimed unable to forward."
10. On August 16, 2007, the expulsion examiner sent the Complainant via certified mail a *Recommendation Following Expulsion Review*. The letter indicated that the expulsion would continue as originally determined. The Complainant signed for the certified mail on August 20, 2007.
11. The Complainant alleged that the School indicated to her that she would receive a letter regarding her son's expulsion review. The Complainant alleged that she never received the letter, specifically the *Notice of Expulsion by Expulsion Examiner*.

CONCLUSIONS:

1. Findings of Fact #2 through #8 indicate that the School followed proper procedures when removing the Student to an interim alternative educational setting for carrying a weapon to school. In addition, Finding of Fact #8 indicates that the School followed appropriate procedure in providing notice to the Complainant. Therefore, no violation is found with respect to 511 IAC 7-29-3.

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