

COMPLAINT INVESTIGATION SUMMARY

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| COMPLAINT NUMBER: | CP-358-2008 |
| COMPLAINT INVESTIGATOR: | Brenda Alyea |
| DATE OF COMPLAINT: | May 13, 2008 |
| DATE OF REPORT: | June 11, 2008 |
| REQUEST FOR RECONSIDERATION: | N/A |
| DATE OF CLOSURE: | June 30, 2008 |

COMPLAINT ISSUES:

Whether the South Ripley Community School Corporation and the Ripley-Ohio-Dearborn Special Education Cooperative (ROD) violated:

511 IAC 7-29-1(l) by failing to follow the procedures required by IC 20-33-8-18 when suspending a student.

511 IAC 7-29-6(a) by failing to notify the parent of the public agency's decision and provide the parent with the notice of procedural safeguards on the date on which the decision to take action is made by the public agency.

511 IAC 7-29-6(b) and (c) by failing to conduct a case conference committee meeting within 10 instructional days to determine whether the student's behavior is a manifestation of the student's disability or the result of deficiencies in the student's individualized education program or special education placement.

511 IAC 7-23-1(p) by disclosing personally identifiable information about students to individuals other than the students' parents and authorized public agency officials, without written and dated consent of the parents or eligible students.

FINDINGS OF FACT:

1. The Student, eighteen years old, has been identified with a Learning Disability and has been determined eligible for special education and related services.
2. According to documentation submitted by the School, the Student attends high school for the first half of the day and attends a career center the last half of the day.
3. The School submitted the Student Attendance Record as follows: (Other unexcused absences are not included.)

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| a. Suspension: | September 21, 2007: | Infraction – fighting |
| b. Suspension: | September 24, 2007: | Infraction – fighting |
| c. Suspension: | September 25, 2007: | Infraction – fighting |
| d. Suspension: | September 26, 2007: | Infraction – fighting |
| e. Suspension: | September 27, 2007: | Infraction – fighting |
| f. Student Behavior Referral: | October 22, 2007: | Infraction – tobacco use |
| g. Suspension: | December 4, 2007: | Infraction – tobacco use |
| h. Suspension: | December 5, 2007: | Infraction – tobacco use |
| i. Suspension: | December 6, 2007: | Infraction – tobacco use |
| j. Suspension: | December 7, 2007: | Infraction – tobacco use |
| k. Suspension: | December 12, 2007: | Infraction – Profanity |
| l. Suspension Notice: | February 15, 2008: | Infraction – tobacco use (Individualized Education Program Case Conference |

m. Suspension:

April 17, 2008:

Committee held February 25, 2008, School did not pursue suspension pending expulsion)
Infraction – tobacco use (pending expulsion)

4. According to School records, the infraction regarding the suspension pending expulsion action dated April 17, 2008, occurred on Friday afternoon, April 11, 2008, at the career center. The School elected to wait until Monday, April 14, 2008 to proceed with the action; however the Student did not attend the scheduled portion of the day at the career center April 14 (illness), 15 (high school field trip), 16 (medical reasons), 2008.
5. The action regarding suspension pending expulsion occurred on April 17, 2008. According to the letter of complaint, the Complainant acknowledged that notification of the suspension was received orally on April 17, 2008 and the written notice was received by the Complainant on April 19, 2008. The Complainant met with school personnel to discuss the issue on April 21, 2008. The Notice of Student Suspension indicated that the Student could return to school on May 1, 2008.
6. The Complainant acknowledged that during the time of the suspension, beginning April 17, 2008, the Student received the prescribed amount of homebound services.
7. A Case Conference Committee (CCC) meeting, chaired by the Assistant Director of Special Education was held on May 1, 2008 to determine whether the student's behavior was a manifestation of the student's behavior or the result of deficiencies in the student's IEP or special education placement. The finding was that "no manifestation relationship exists. The school may proceed with expulsion proceedings."
8. During the CCC meeting held on May 1, 2008, the issue of homebound services that had been provided during the period of suspension was discussed. Also, according to the Discussion Summary of the CCC meeting, the Complainant disputed the absence of a causal relationship and elected to submit a dissenting opinion. The Complainants have not elected to file for either mediation or a due process hearing to date.
9. The School acknowledges that the Notice of Procedural Safeguards was not provided to the parent on the date on which the decision was made to take disciplinary action. The School sent a letter dated April 22, 2008, enclosing a copy of the Notice of Procedural Safeguards, with an offer to answer questions about parental rights or a verbal explanation.
10. The School acknowledges that during a conversation with Complainants concerning the impending disciplinary action, School personnel referred to one student by a first name and an additional student by a last name. There was no further identification of either student.
11. The Complainant acknowledged that the Student received homebound services after the expulsion occurred. The Complainant also indicated that the expulsion ends at the beginning of the 2008-2009 school year and that the Student will be returning to school at that time.
12. During the investigation of this complaint, the Ripley-Ohio-Dearborn Special Education Cooperative held an in-service training session on the issue of the procedures involved in Assigning Discipline for Special Education Students. A copy of the material covered was submitted by the School. This training was conducted May 21, 2008 and involved personnel employed at the high school and the career center attended by the Student. Also, during the same in-service training, confidentiality with regard to the Family Educational Rights and Privacy Act was reviewed. A copy of the material covered was submitted by the School.

CONCLUSIONS:

1. Findings of Fact # 5, # 6, and # 11, indicate that the School notified the Complainant of the impending action both orally and in writing and provided services during the period of suspension and expulsion. Therefore a violation of 511 IAC 7-29-1(l) is not found.
2. Finding of Fact # 3 indicates that the Notice of Procedural Safeguards was not provided to the parent on the date on which the decision was made to take disciplinary action, therefore a violation of 511 IAC 7-29-6(a) is found. However, finding of Fact # 12 indicates that the School took action with respect to the School's violation on May 21, 2008. Therefore, no further Correction Action is required.
3. Finding of Fact # 7 indicates that the Case Conference Meeting held for a manifestation determination occurred on the tenth day after the action of suspension pending expulsion. Therefore, a violation of 511 IAC 7-29-6(b) and (c) is not found.
4. Finding of Fact # 10 indicates that school personnel, while discussing disciplinary issues with the Complainants, referred to other students by name without written parental consent, Therefore a violation of 511 IAC 7-23-1(p) is found. However, finding of Fact # 12 indicates that the School took action with respect to the School's violation on May 21, 2008. Therefore, no further Correction Action is required.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.