



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

November 6, 2001

Mr. Ed Kapel
Interim Director
Office for Exceptional Children
Ohio Department of Education
25 Front Street
Columbus, Ohio 43215-4183

Dear Mr. Kapel:

The Office of Special Education Programs (OSEP) received a letter of complaint from X dated December 28, 2000 concerning formal complaints she filed with the Ohio Department of Education, Office for Exceptional Children (ODE) against the X School District and X School District. In her letter, X alleges that ODE did not follow the complaint procedures under the Individual with Disabilities Education Act, Part B at 34 CFR §300.661. X filed her complaint against the X School District on May 10, 2000, and ODE completed its investigation and issued its written decision on February 6, 2001, 203 days beyond the 60-day timeline. On September 5, 2000, X filed a complaint with ODE against the X School District (enclosed). To date, this complaint has not been resolved.

Since February 6, 2001, OSEP has had frequent communications with ODE, including an onsite meeting with ODE staff, concerning ODE's resolution of X complaint against the X School District. Throughout this period, ODE informed OSEP that it was working with X to resolve her complaint and assured us that a written decision would be issued pending guidance from ODE's legal division. In our most recent communications with your Office, and in correspondence from the complainant, OSEP was informed that X has never received a written decision on her complaint against the X School District for refusing to conduct an initial evaluation of X under 34 CFR §300.320.

While OSEP acknowledges ODE's work with the parties to the complaint on behalf of X, ODE is still responsible to resolve this complaint in accordance with the complaint requirements in the regulations applicable to Part B at 34 CFR §§300.660-300.662. Consistent with these regulations, your agency, among other duties, should have done all of the following within 60 calendar days of receiving this complaint:

Page 2 - Mr. Ed Kapel

Conducted an independent on-site investigation if your agency determined such an investigation was necessary;

Given the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

Reviewed all relevant information and made an independent determination as to whether the public agency was violating a requirement of Part B; and

Issued a written decision to the complainant that addresses each allegation in the complaint and contains findings of fact, conclusions, and the reasons for your agency's final decision.

We are extremely concerned that over a year after the complaint was filed, your Office has not issued a decision as required under Federal law. Therefore, we are requesting that you resolve this on an expedited basis and that you send a copy of your agency's final decision within 30 days of your receipt of this letter to X and Ms. Margaret Romer of my staff at:

Ms. Margaret Romer
U.S. Department of Education
Office of Special Education Programs
dRoom 3614, Switzer Building
330 C Street S.W.
Washington, D.C. 20202-2640

Thank you for your prompt attention to this matter.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosure
cc: X