



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

APR - 2, 2003

Sonja D. Kerr, Esq.
Kerr Law Offices
5972 Cahill Avenue S., Suite 110
Inver Grove Heights, Minnesota 55076

Dear Ms. Kerr:

Thank you for your letter to Larry Ringer and Dr. JoLeta Reynolds in the Office of Special Education Programs (OSEP) regarding the development of individualized education programs (IEPs). We apologize for the delay in responding to your concerns. In your letter, you requested clarification on two issues. Your specific questions are restated below followed by OSEP's response.

1. Should IEPs be developed, reviewed and revised in meetings or is it acceptable to have a meeting and then have someone "write up" the IEP?

As you point out, the Individuals with Disabilities Education Act (IDEA) Part B regulations at 34 CFR §300.340 define IEP as a "written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.341-300.350." Discussion in Appendix A to 34 CFR Part 300 (Notice of Interpretation, question 32) clarifies that agency staff may come to an IEP meeting prepared with evaluation findings and proposed recommendations regarding IEP content, but the agency must make it clear to the parents at the outset of the meeting that the services proposed by the agency are only recommendations for review and discussion with the parents. Furthermore, parents have the right to bring questions, concerns and recommendations to an IEP meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs before the IEP is finalized.

Neither the IDEA nor the final regulations implemented pursuant to that Act address the "write up" of the IEP. Therefore, whether or not parents must be physically present when the IEP is written is a State issue. If, however, the "write up" is done following the IEP team meeting, it must accurately reflect the decisions of the IEP team that were made during the IEP team meeting.

2. Minnesota has a process known as conciliation conference, Minn. R. at 3525.3700; does the process violate IDEA?

Your question appears to focus on whether an IEP can be developed during a conciliation conference. Neither the IDEA nor the final regulations implemented pursuant to that Act prohibit parties to a dispute from entering into an agreement to resolve that dispute. Therefore, the IDEA and the final regulations do not prohibit a school system from proposing an IEP developed in a conciliation conference to the parents. Further, neither

Page 2 Sonja D. Kerr, Esq

the IDEA nor the final regulations prohibit parties from making offers of settlement or submitting such settlement offers to a hearing officer or court. The IDEA actually contemplates that parties will make offers of settlement, and that they may be submitted to a hearing officer or court, by limiting attorneys' fees where the relief obtained is not more favorable than the offer of settlement. 20 U.S.C. 1415(i)(3)(D).

I hope this information is helpful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Bland".

for
Stephanie S. Lee
Director
Office of Special Education Programs