



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

March 30, 2001

Dr. Fran Warkomski
Director
Bureau of Special Education
Pennsylvania Department of Education
333 Market Street, 7th Floor
Harrisburg, Pennsylvania 17236-0333

Dear Dr. Warkomski:

This letter is in response to a request from x for Secretarial review of the Pennsylvania Department of Education (PDE) decision on the complaint filed with respect to the x on behalf of children with disabilities placed at the Center. PDE issued its decision on this complaint on March 24, 1999.

The complaint procedures applicable to Part B of the Individuals with Disabilities Education Act (Part B), at 34 CFR §300.661(d), at the time of the complaint, provide that after a complaint has been filed with the State, and the State has acted on it, a party to the complaint may request that the Secretary of Education review the State's final decision. Pursuant to this regulation, the Secretary exercises this responsibility on a discretionary basis; that is, the Secretary has the authority to grant or to deny the request for review.

The Secretary has delegated the responsibility for administering Part B to the Assistant Secretary for Special Education and Rehabilitative Services. Included within this delegation is the responsibility for determining whether to grant or to deny requests for Secretarial review of issues involving Part B. Additionally, if the State educational agency (SEA) has failed to adequately address or resolve all of the issues raised by the complaint, the complaint may be remanded to the State for a new decision on these issues.

Based on our review of PDE's decision and other related materials, it appears that the decisions rendered in x's complaint did not, in all cases, contain corrective actions to achieve compliance. This is inconsistent with the State Complaint Procedures applicable to Part B, at the time of the complaint, that require effective implementation of the SEA's decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. See 34 CFR §§300.660-300.662. Therefore, we are remanding x's complaint to PDE with the instruction to address those issues that require further actions as specified below.

It appears that PDE dismissed this complaint without investigating one of the issues. Therefore, we are returning this complaint to your office to reopen and, as required by the complaint provisions, resolve the issue regarding the allegation that all students who require surrogate parent appointments may not have them. The Part B State Complaint Procedures are intended to address both systemic and child-specific violations. In order to meet its general supervisory responsibility under 34 CFR 300.660, PDE must resolve complaints in a way that provides

individual relief, when appropriate, and addresses systemically the provision of appropriate services for all children with disabilities.

For your information, we are enclosing a copy of the Department's letter to x. We are requesting that PDE take action, as directed above, within 30 calendar days of receipt of this letter and provide the Office of Special Education Programs with a copy of its written decision.

If you have questions, please do not hesitate to contact Dr. Deborah J. Morrow, the Pennsylvania State Contact, at (202) 260-2946. Thank you in advance for your attention to this matter.

Sincerely,

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

Patricia J. Guard
Acting Director
Office of Special Education
Programs

Enclosures

cc: x