



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

OCT 17 2002

Ms. Shan Goff
Bureau of Instructional Support and
Community Services
Florida Education Center
325 West Gaines Street
Tallahassee, Florida 32399-0400

Dear Ms. Goff:

This letter is a follow-up to those actions that the Office of Special Education Programs (OSEP) has taken to address the availability of speech and language pathology as a related service to children with disabilities in Florida. These include OSEP's review of the Florida Department of Education (FDE) and the report issued on April 26, 2001, the January 30, 2002 letter from OSEP to FDE concerning an Office for Civil Rights (OCR) complaint, FDE's additional assurance as stated in the July 1, 2002 grant award letter, and OSEP's review of Florida's Improvement Plan submitted on August 20, 2002.

In the monitoring report assessing FDE's compliance with the Individuals with Disabilities Education Act (IDEA), OSEP determined that school districts do not ensure that children who need speech and language pathology as a related service to benefit from special education receive that service. This finding was based on 34 CFR §§300.24(b)(14) and 300.300 requiring public agencies to provide speech and language pathology as a related service to children with disabilities who need that service to benefit from special education.

In response to an inquiry from a member of the public, who also filed an OCR complaint on the same issue, OSEP sent a letter to FDE concerning the standard FDE applied in its September 11, 2001 Report of Inquiry to the complainant. The conclusion that FDE reached in the Report of Inquiry states that "a student must be determined eligible under the criteria for the special programs for students who are speech and language impaired in order to receive direct services from a speech and language pathologist."

OSEP is currently in the process of reviewing FDE's Improvement Plan intended to guide Florida's efforts to ensure compliance and improve results for children with disabilities and their families who are served under IDEA. The Improvement Plan addresses the areas of noncompliance, including the speech issue, identified in OSEP's monitoring report and will be used by FDE as a vehicle for correcting deficiencies. With regard to the speech issue, the Improvement Plan strategies will not correct the problem because they are based on the incorrect interpretation of the standard as evidenced in the memorandum to district school superintendents developed to respond to the OCR complaint.

Although FDE, as set forth in the State Board of Education Rules 6A-6.03012, considers speech to be a special education service, FDE must also ensure that school districts provide speech and language services to any child with a disability who needs those services to benefit from special education, even if he or she does not meet the State's criteria to receive speech-language pathology services as a special education service.

In response to an OCR complaint and OSEP's monitoring report, FDE issued a memorandum dated April 26, 2002 to district school superintendents to inform them of the outstanding issue concerning the provision of speech-language services as a related service. This memorandum does not provide clear guidance to the districts or direct the districts to ensure that any child with a disability who needs speech-language pathology services to benefit from special education services receives that service whether or not he or she meets the State's criteria to receive speech-language services as special education.

OSEP continues to have serious concerns over this matter. We are requesting that FDE issue new guidance to school districts to clarify that speech and language services may be provided directly by a speech and language pathologist as a related service if necessary for the child to benefit from special education without meeting the State's eligibility criteria for speech and language impairments. In addition, the Improvement Plan must be revised to contain the evidence of change, measurable benchmarks, and reasonable timelines, as well as agency resources necessary to correct this deficiency and to insure that the activities undertaken are consistent with Federal requirements. Improvement activities need to include staff training, including training of State level complaint investigators, that clarifies that speech and language services may be provided directly by a speech and language pathologist as a related service if necessary to benefit from special education, without meeting the State's eligibility criteria for speech and language impairments. The Improvement Plan must also address how FDE will incorporate this area into its monitoring system during the current monitoring cycle.

Please submit a draft of the revised guidance memorandum to district school superintendents for our review within 30 days of receipt of this letter. Upon OSEP's approval of the memorandum, FDE must issue it within 30 days. In order to be in compliance, FDE will need to provide evidence of change demonstrating that it has corrected this violation within one year of our final approval of the guidance memorandum.

We would like to emphasize our continued commitment to working with you to resolve this matter in a way that ensures a free appropriate public education to all eligible children with disabilities in Florida.

Sincerely,

A handwritten signature in black ink that reads "Stephanie S. Lee". The signature is written in a cursive style with a large initial 'S'.

Stephanie S. Lee

Director

Office of Special Education

Programs