



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

JUN 25 2003

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This is in response to your inquiry regarding States' responsibilities for enforcing the Individuals with Disabilities Education Act (IDEA) and the provision of a free appropriate public education (FAPE) to students with disabilities. We appreciated having an opportunity to discuss your concerns with you by telephone on two occasions and regret the delay in responding to you in writing, as you requested.

In your first question, you asked what oversight responsibility a State educational agency (SEA) has over a local educational agency (LEA) with regard to the provision of FAPE to children with disabilities. The IDEA assigns responsibility to SEAs for ensuring that its requirements are met and that all educational programs for children with disabilities, including all such programs administered by any other State or local agency, are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities and that these programs meet the educational standards of the SEA. State support and involvement at the local level are critical to the successful implementation of the provisions of IDEA. To carry out their responsibilities, States provide dispute resolution mechanisms (mediation, complaint resolution and due process), monitor the implementation of State and Federal statutes and regulations, establish standards for personnel development and certification as well as educational programs, and provide technical assistance and training across the State. Effective general supervision promotes positive student outcomes by promoting appropriate educational services to children with disabilities, ensuring the successful and timely correction of identified deficiencies, and providing personnel who work with children with disabilities the knowledge, skills and abilities necessary to carry out their assigned responsibilities.

In your second set of questions, #2 and #2A, you inquire about the method of an SEA investigation and ask whether the Florida Department of Education's complaint investigation in DOE Agency Case No. DOE-2001-659-FOF met appropriate investigative standards under IDEA. The regulations implementing Part B of the IDEA, at 34 CFR §§300.660-300.662 (State Complaint Procedures), provide that each SEA "Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary." See 34 CFR §300.661(a)(1). However, the regulations do not specify the manner or method in which the SEA must conduct such an investigation. We have attached a guidance memorandum about the State Complaint Procedures that should provide you with clarifying information about these procedures.

In your final set of questions, #3 and 3A, you ask whether an SEA or LEA is adequately meeting its obligations under the IDEA if the graduation rate for students with disabilities is below the rate for non-disabled students or if a local educational agency's graduation rate is below the State average for students with disabilities. Part B of the IDEA does not specify that students with disabilities attain particular graduation rates as a requirement for a State to meet its obligations under the IDEA. However, Part B does require each State to establish goals for the performance of children with disabilities, and to establish indicators that the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and **graduation rates** (34 CFR §300.137(a) and (b)).

In addition, the Office of Special Education Programs (OSEP), through its Continuous Improvement Monitoring Process, does consider graduation and dropout rates among the critical data that each State collects and reports to the Secretary and the public on the progress of the State, and of children with disabilities in the State. OSEP also considers graduation and dropout rates as important indicators as to whether there may be compliance problems with regard to the provision of appropriate special education and related services to children with disabilities served by the State. If through the Continuous Improvement Monitoring Process graduation and dropout rates are identified as areas of concern, OSEP generally works with the State, through the State's Improvement Plan, to identify strategies and activities that focus on improved results for children and youth with disabilities and regularly reviews the State's progress in meeting its performance goals.

We hope this information is helpful. If you have further questions, please do not hesitate to contact Sheila Friedman, the Florida State contact, at (202) 205-9055.

Sincerely,



Stephanie S. Lee
Director
Office of Special Education Programs

Enclosure

cc: Ms. Shan Goff
Florida Department of Education