



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

NOV 18 2003

Ms. Shan Goff
Chief
Bureau of Instructional Support and Community Services
Florida Department of Education
325 West Gaines Street, Suite 614
Tallahassee, Florida 32399-0400

Dear Ms. Goff:

The Office of Special Education Programs received the enclosed letter from Ms. [REDACTED] Ms. [REDACTED] requests that we forward her letter to the Florida Department of Education as a complaint. Please resolve this complaint in accordance with the complaint requirements in the regulations applicable to Part B of the Individuals with Disabilities Education Act (IDEA) at 34 CFR §§300.660-300.662. Consistent with these regulations, your agency, among other duties, must do the following within 60 calendar days of receiving this complaint:

Conduct an independent on-site investigation if your agency determines such an investigation is necessary;

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

Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B; and

Issue 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.

In your resolution of this complaint, it may be helpful to note that under Part B of the IDEA, 20 U.S.C. 1415(i)(3)(B)-(G) and its implementing regulations at 34 C.F.R. §300.513, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party in a due process hearing. The statute specifically authorizes attorneys' fees for the parents of children with disabilities and does not provide a reciprocal right under the IDEA for a local educational agency (LEA) or State educational agency (SEA). While the IDEA does not afford an LEA the right to recover attorneys' fees under the IDEA, it may be permissible for an LEA or SEA to recover fees under other applicable federal or State laws. Where,

for example, under applicable State or federal law, an LEA has the ability to seek recovery of attorneys' fees if a complaint is filed in bad faith, under the notice provisions of the IDEA, it would be permissible for the LEA to state the provisions of such laws. It would, of course, be impermissible to misstate the provisions of the law in an effort to dissuade, deny or delay a parent from exercising their right to a due process hearing or any other rights afforded under the IDEA.

Please send a copy of your agency's final decision to Ms. Crum-Norris and to:

Ms. Sheila Friedman
U.S. Department of Education
Office of Special Education Programs
Room 3633, Switzer Building
400 Independence Avenue
Washington, D.C. 20202-2640

Thank you in advance for your attention to this matter. If you have questions or concerns, you can contact Dale King at 202-260-1156 or Sheila Friedman at 202-205-9055.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: 

Enclosures