



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

December 27, 2016

Rochelle Marcus, M.Ed., J.D.
401 East Las Olas Boulevard
Suite 1400
Fort Lauderdale, Florida 33301

Dear Ms. Marcus:

This letter responds to your February 16, 2016 and March 29, 2016 correspondence to the U.S. Department of Education (Department), Office of Special Education Programs within the Office of Special Education and Rehabilitative Services. We regret the delay in responding.

In your February 16, 2016 letter, you ask whether the Individuals with Disabilities Education Act (IDEA) obligates a school district to correspond with a parent's attorney. As you correctly indicate, the IDEA and its implementing regulations do allow parents access to representation but only speak to specific circumstances. For example, at an individualized education program (IEP) Team meeting a parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney, provided they meet the requirements of 34 CFR §300.321(a)(6) of the Part B regulations, consistent with section 614(d)(1)(B)(vi) of the IDEA. The regulation allows other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate, to be included as members of a child's IEP Team at the discretion of the parent or the public agency. Under 34 CFR §300.512(a)(1), any party to a hearing has the right to be accompanied and advised by counsel. Consistent with 34 CFR §300.508(a)(1), the public agency must have procedures that, in the case of a due process complaint, require either party, or the attorney representing a party, to provide to the other party a copy of the due process complaint.

However, the IDEA and its implementing regulations do not contain a general requirement that schools must communicate with a parent's attorney outside of specific situations, such as those represented above. General State standards addressing the attorney-client relationship are outside the scope of the IDEA.

In subsequent correspondence dated March 29, 2016, you inquired as to whether electronic mail messages (emails) written by school staff about a student should be considered an educational or public record. Since this is an issue addressed under the Family Educational Rights and Privacy Act and not the IDEA, we are referring you to the Department's Family Policy Compliance Office (FPCO). Please contact Mr. Dale King, Director, FPCO, at (202) 260-3887 or by email to Dale.King2@ed.gov.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the Department of the IDEA in the context of the specific facts presented.

If you have any further questions, please do not hesitate to contact Ken Kienas of my staff at 202-245-7621 or by email at Ken.Kienas@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs