



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

JUN 27 2000

Honorable Don Nickles
United States Senate
409 South Boston, Suite 3310
Tulsa, Oklahoma 74103-4007
Attn.: Ms. Elora Reynolds,
Constituent Representative

Dear Senator Nickles:

Your letter, dated November 3, 1999, addressed to Assistant Secretary Scott Fleming, Office of Legislation and Congressional Affairs, U.S. Department of Education, was referred to the Office of Special Education Programs (OSEP), U.S. Department of Education, for response. OSEP administers Part B of the Individuals with Disabilities Education Act (IDEA). OSEP provides funds through Part B to States, and through States, to local school districts to meet the unique educational needs of eligible children with disabilities. 20 U.S.C. §1401 *et seq.*

You wrote to Assistant Secretary Fleming on behalf of your constituent, [REDACTED] regarding reimbursement for an Independent Educational Evaluation for [REDACTED] under the IDEA. Specifically, [REDACTED] indicated in [REDACTED] letter to you, dated September 30, 1999, that the [REDACTED] Public Schools denied [REDACTED] request for reimbursement for the cost of [REDACTED] Independent Education Evaluation. She requested the name of the appropriate Federal agency to appeal the school district's decision. The following information is provided for your consideration in responding to [REDACTED]

A parent may obtain an Independent Education Evaluation (IEE) each time the public agency conducts a Part B evaluation for that parent's child. 20 U.S.C. §1415(b)(1). A Part B evaluation is conducted to determine the child's initial and continued eligibility and prior to the child's educational placement to determine the child's educational needs. 20 U.S.C. § 1414(a)(1); 34 C.F.R. § 300.320(a). A reevaluation may also be conducted at the request of the child's parent or teacher, if other conditions warrant, or at least every third year. 20 U.S.C. § 1414(a)(2); 34 C.F.R. §§ 300.321 and 300.536(b).

Under Part B, a parent has the right to an IEE at public expense "if the parent disagrees with an evaluation obtained by the public agency." 34 C.F.R. §300.502(b)(1). If the parent disagrees with the evaluation conducted by the public agency, and requests an IEE, the public agency must without unnecessary delay either: (i) pay for the cost of the IEE, or (ii) initiate a due process hearing where the hearing officer determines whether the public agency's evaluation is appropriate. 34 C.F.R. §300.502(b)(2). If the hearing officer determines that the public agency's evaluation is appropriate, the public agency does not have to pay the cost of the IEE. However, if a parent obtains an IEE at private

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expense, the IEE results must be considered by the public agency (if the IEE meets agency criteria) in any decision made with respect to the provision of a free appropriate public education to the child. 34 CFR §300.502(c). In addition, the IEE results may be introduced as evidence at a due process hearing on the reimbursement issue. *Id.*

If [REDACTED] believes that the [REDACTED] Public Schools incorrectly denied [REDACTED] reimbursement claim or that other Part B requirements were not met, [REDACTED] may request a due process hearing in writing on this issue.

[REDACTED] may also raise such issues by filing a complaint with the Oklahoma Department of Education (OKDE). OKDE is the State educational agency (SEA) that is required to maintain procedures for receiving and resolving any written, signed complaint stating that a public agency has violated a requirement of Part B. 34 CFR §§300.660-300.662. The OKDE contact information is:

Ms. Darla Griffin
Executive Director
Special Education Division
State Department of Education
2500 N. Lincoln Boulevard
Oklahoma City, Oklahoma 73105-4599
Telephone Number: (405) 521-3351

A copy of the Federal regulations implementing IDEA is enclosed for your information and possible transmittal to [REDACTED]. We hope that this information is helpful. If this Office can be of further assistance, please do not hesitate to contact Ms. Maral Taylor, the OSEP Part B contact for Oklahoma, at (202) 205-9181, or me.

Sincerely,



Kenneth R. Warlick
Director
Office of Special Education
Programs

Enclosure

cc: Ms. Darla Griffin (w/o enc.)