



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

MAR 29 2000

[REDACTED]  
[REDACTED]  
[REDACTED]  
Dear [REDACTED]

This is in response to your letter regarding your request to the Garden City Public Schools (GCPS) for an independent educational evaluation (IEE), in accordance with Part B of the Individuals with Disabilities Education Act. You expressed concern because the school district asked you to submit the charges for the IEE to your insurance company.

As one of the Part B procedural safeguards, a parent has the right to an IEE at public expense "if the parent disagrees with an evaluation obtained by the public agency." See 34 CFR §300.502(b). A parent's right to an IEE is available each time the public agency conducts a Part B evaluation, including the child's preplacement evaluation, the triennial reevaluation, or more frequent reevaluations conducted at the request of the child's parent or teacher or if conditions warrant. See 34 CFR §§300.530-300.536. The public agency does have the right, however, to initiate a hearing under 34 CFR §300.507 to demonstrate that its evaluation is appropriate, thereby relieving it of its responsibility to pay for the IEE. See 34 CFR §300.502(b).

Since the IEE must be provided at public expense, it is inconsistent with Federal law for the State and local school districts to adopt policies and/or procedures requiring parents to submit the bills for the cost of an IEE to their private insurance company. Under 34 CFR §300.142(f), a public agency may access a parent's private insurance proceeds only if the parent provides informed consent each time the public agency proposes to access the parent's private insurance. Consistent with the definition of consent at 34 CFR §300.500(b)(1), such consent must fully inform parents that they could incur financial consequences from the use of their private insurance to pay for services that the school district is required to provide under Part B, and that the parents should check with their private insurance provider so that they understand the foreseeable future financial costs to themselves before they give consent. Parents must also be informed that they may refuse to use their private insurance and that their refusal will not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parent.

The GCPS' procedure for an independent evaluation, which is attached to your letter, states that "charges for the IEE must first be submitted to your health care insurance company. The remaining balance, if one exists, will be paid by the school district." This procedure violates the requirements of 34 CFR §300.502(b) and 34 CFR §300.142(f). Therefore, with your consent, per your telephone conversation with a member of my

staff on March 6, 2000, I am forwarding this allegation to the Michigan Department of Education (MDE) to investigate as a complaint.

In addition, I am asking MDE to investigate whether you were improperly denied an IEE under 34 CFR §300.502(b) because GCPS refused to include in the IEE "an evaluation for non-verbal learning disability." Under 34 CFR §300.532(g), the child must be assessed in all areas related to the suspected disability. Parents of a child with a disability have a right to seek at public expense an IEE if the parents disagree with the evaluation because they believe that the child has not been assessed in all areas related to the suspected disability. The local school district must respond to the parent's request for an IEE without unnecessary delay by either paying for the IEE or initiating a due process hearing to show that its own evaluation is appropriate. See 34 CFR §300.502(b)(2).

If you have any questions about the status of MDE's investigation of your complaint, you can contact the State Director of Special Education at the following address and telephone number:

Dr. Jacquelyn J. Thompson  
Director  
Special Education Services  
Michigan Department of Education  
P.O. Box 3008  
608 West Allegan Street  
Lansing, Michigan 48909-7508  
Telephone: (517 ) 373-9433

Thank you for bringing this matter to our attention. A copy of our letter to Dr. Jacqueline J. Thompson at MDE is enclosed for your information. Please let me know if I can be of further assistance.

Sincerely,



Kenneth R. Warlick  
Director  
Office of Special Education  
Programs

Enclosure

cc: Dr. Jacqueline J. Thompson