



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

November 19, 2014

Vanita Gupta
Acting Assistant Attorney General
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: *G.L., Mr. G.L., Mrs. E.L. v. Ligonier Valley School District Authority*, No. 14-1387

Dear Ms. Gupta:

The United States Department of Education (“Department”) submits this letter in response to the Court’s orders dated October 1 and 18, 2014, requesting that the Department submit, by November 19, 2014, an *amicus curiae* letter brief “concerning the significance of the two-year time period specified in 20 U.S.C. §1415(b)(6)(B) to the scope of redressability for an alleged IDEA [the Individuals with Disabilities Education Act] violation and its relation to 20 U.S.C. §1415(f)(3)(C).”

In the Analysis of Comments and Changes in the 2006 IDEA Part B regulations, the Department published the following:

Comment: Some commenters requested that the regulations clarify whether the statute of limitations in section 615(b)(6)(B) of the Act is the same statute of limitations in section 615(f)(3)(C) of the Act.¹ The commenters stated that the Act and regulations are confusing because the statute of limitations is mentioned twice and implies that the timeline for filing a complaint and filing a request for a due process hearing are different.

Discussion: The statute of limitations in section 615(b)(6)(B) of the Act is the same as the statute of limitations in section 615(f)(3)(C) of the Act. Because we are following the structure of the Act, we have included this language in [34 C.F.R. §§] 300.507(a)(2) and 300.511(e).

Assistance to States for the Education of Children With Disabilities and
Preschool Grants for Children With Disabilities, 71 Fed. Reg. 46,540,
46,706 (Aug. 14, 2006).

¹ These sections correspond to 20 U.S.C. §1415(b)(6)(B) and (f)(3)(C), respectively.

The Department has carefully reviewed, and appreciates, the district court's analysis. We are not aware of any other federal circuits that have addressed this issue since we published this statement in 2006 regarding the relationship between section 1415(b)(6)(B) and section 1415(f)(3)(C) of the IDEA. Likewise, the Department has not received inquiries about this statement prior to this litigation.

When we received the Court's order requesting that the Department submit an *amicus curiae* letter brief on these two sections and the two-year period mentioned in each provision, my office, together with the Office of Special Education and Rehabilitative Services, immediately reviewed this matter and reexamined the information we have available.

Given the fact that the Department has not received questions regarding the relationship between these two provisions prior to this litigation and since the IDEA Part B regulations were published in 2006, the fact that the regulations mirror the statutory provisions, the district court's opinion highlighting the differences in the two provisions, and the arguable tension between the two provisions and the 2006 Comment, the Department will continue to review its prior statement regarding these provisions to determine the extent to which further clarification is necessary. In doing so, and particularly in light of the implications of any interpretation of a limitations period governing due process claims under the IDEA, the Department plans to do further work, including gathering information from, and coordinating with, States and other stakeholders, on their understanding and implementation of the provisions, and to provide further guidance if appropriate.

We appreciate the interest in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Philip H. Rosenfelt". The signature is written in a cursive, flowing style.

Philip H. Rosenfelt
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