



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JAN - 8 1998

Dr. Hill East
Assistant Director
Division of Special Education Services
Alabama State Department of Education
50 North Ripley Street
Gordon Persons Building
Montgomery, Alabama 36130-3901

Dear Dr. East:

I am writing in response to a request for Secretarial review of the Alabama State Department of Education's (ALSDE) decision on complaints filed by . The complaints were against the County School System regarding special educational services for and were filed on July 31, and September 30, 1996. ALSDE issued its letter of findings on November 6, 1996.

The regulations for Part B of the Individuals with Disabilities Education Act (Part B) require, at 34 CFR §§300.660-662, that each State educational agency (SEA) adopt procedures for resolving complaints.¹ Section 300.661(d), provides that after a complaint has been filed with the State, and the State has acted on it, a party to the complaint may request that the Secretary of Education review the State's final decision. Pursuant to this regulation, the Secretary exercises this responsibility on a discretionary basis; that is, the Secretary has the authority to grant or to deny the request for review.

The Secretary has delegated the responsibility for administering Part B to the Assistant Secretary for Special Education and Rehabilitative Services. Included within this delegation is the

¹As you may know, on June 4, 1997, President Clinton signed into law the Individuals with Disabilities Education Act Amendments of 1997 (IDEA 1997). In addition, on October 22, 1997, the Department published, in the Federal Register at 55 Fed. Reg. 55026, a Notice of Proposed Rulemaking (NPRM) to implement IDEA 1997. The Department has not proposed to change significantly any of the provisions of the State complaint procedures, 34 CFR §§300.660-662, pertinent here. Of note, however, is that the Department proposed to eliminate a complainant's right to request the Secretary to review a State decision with which the complainant disagrees.

responsibility for determining whether to grant or to deny requests for Secretarial review of issues involving Part B. As indicated in my letter to _____ (copy enclosed), the decision to grant or to deny requests for Secretarial review is determined on a case-by-case basis, based upon a thorough review of all documentation submitted. Based upon our review of the information in this case, we have decided to deny request for Secretarial review for the reasons set forth in the enclosed letter to _____ .

However, based on the information provided by it _____ , it appears ALSDE exceeded the 60-day timeline in response to the complaint filed on July 31, 1996. This is to remind you that, consistent with the State complaint procedures, your agency, among other duties, is required; within 60 calendar days of receiving a complaint, to 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.

If you have questions or concerns regarding this matter, please contact Delores Barber, OSEP's State contact person for Alabama, at (202) 205-9033.

We appreciate your attention to this matter.

Sincerely;'



Thomas Hehir
Director
Office of Special Education
Programs

Enclosure