



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Jun 24 1999

Robert Hornstein  
Southern Legal Counsel, Inc.  
1229 N.W. 12th Avenue  
Gainesville, Florida 32601-4113

Dear Mr. Hornstein:

This is in response to your letter written to OSERS Assistant Secretary Judith E. Heumann concerning "the propriety of a local school board rule promulgated by the Osceola County School Board that precludes a parent, upon successfully prevailing in an administrative due process hearing, from seeking attorney's fees in state court as authorized by the IDEA..." I apologize for the delay in my response.

Section 615(i)(3)(B) of the Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17, (IDEA '97) provides:

(B) AWARD OF ATTORNEYS' FEES--In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party.

The Office of Special Education Programs (OSEP) does not view the above statutory provision as specifically limiting the ability of a State court to exercise jurisdiction over a request for an attorneys' fee award by the parents of a child with a disability who is the prevailing party in any action or proceeding brought under §615 of IDEA '97.

Members of my staff are working with officials of the Florida Department of Education (FDE) with regard to this matter, and are requesting clarification from FDE on the issue of whether Florida State courts have jurisdiction to make attorneys' fee awards to parents of children with disabilities who are prevailing parties in any actions or proceedings brought under §615 of IDEA '97.

We hope that you find this explanation of the applicable requirements of IDEA '97 helpful. If you would like further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss at (202)205-5507 or (202)205-9053, respectively.

Sincerely,

Thomas Hehir  
Director  
Office of Special Education  
Programs

cc: Shan Goff  
Florida Department of  
Education