



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEP 29 1998

Leslie A. Collins, Staff Attorney
Pennsylvania State Education Association
Legal Division
400 North Third Street
PO Box 2225
Harrisburg, Pennsylvania 17105-2225

Dear Ms. Collins:

This is in response to your letter dated March 11, 1998, written to the Office of Special Education Programs (OSEP), regarding the requirements in Part B of the Individuals with Disabilities Education Act (Part B) applicable to local educational agency (LEA) representatives as members of a child's individualized education program (IEP) team. Please excuse the delay in issuing this response.

Regulations governing participants at IEP Team meetings prior to July 1, 1998 required each child's IEP Team to include, among others: "a representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education." 34 CFR §300.344(a)(1). The Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA '97) expand on the requirements of prior law and provide that the IEP Team must include "a representative of the local educational agency" who meets the following criteria:

- (I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
- (II) is knowledgeable about the general curriculum; and
- (III) is knowledgeable about the availability of resources of the local educational agency." §614(d)(1)(B)(iv) of IDEA '97.

This requirement, along with most other IEP requirements in IDEA '97, became effective for IEPs developed on or after July 1, 1998. See §201 of Pub. L. 105-17; OSEP Memorandum 98-8 (copy enclosed). Therefore, whether a school psychologist or guidance counselor could serve as the LEA representative on a child's IEP Team would depend on whether the criteria set out above are satisfied.

Part B contains State complaint procedures at 34 CFR §§300.660-300.662 (copy enclosed). These regulations require that, within 60 calendar days of receiving a complaint, the SEA must provide the complainant with a written decision that addresses each allegation in the complaint, and contains (1) findings of fact and conclusions, and (2) the reasons for the final decision. If

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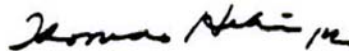
you believe that the issues prompting your inquiry could constitute a violation of the applicable Part B requirements explained above, you may wish to file a complaint with the Pennsylvania Department of Education (P.E.). For more information about the filing of a Part B complaint in Pennsylvania, you should contact the named P.E. official at the following address and telephone number:

Dr. William W. Penn
State Director
Bureau of Special Education
Pennsylvania Department of Education
333 Market Street, Seventh Floor
Harrisburg, Pennsylvania 17126

Telephone: 717-783-2311

We hope that you find this explanation and the enclosed information helpful. If you would like further assistance, please contact Ms. Deborah Morrow, the Pennsylvania State contact in the Monitoring and State Improvement Planning Division, at (202) 260-2946.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Dr. William W. Penn
Pennsylvania Department
of Education