



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

*SEP 14 1999*

Charles M. Masner, Esq.  
Federal Complaints Officer  
Colorado Department of Education  
201 East Colfax Avenue  
Denver, Colorado 80203-1704

Dear Mr. Masner:

Thank you for your letter written to the Office of Special Education Programs (OSEP) dated May 24, 1999, regarding a parent's right to initiate an impartial due process hearing or file a State complaint in the following situation.

In the situation you describe, a student with a disability "graduates" from high school with a non-regular high school diploma. Because the parent believes that her child should have been awarded a regular high school diploma, she would like to initiate a Part B due process hearing or file a State complaint. You also ask whether the parent would have the right to initiate a due process hearing or file a State complaint, had the child been awarded a regular high school diploma when the parent believed that the award of a special education diploma would have been appropriate.

Under Part B of the Individuals with Disabilities Education Act (Part B), a parent has the right to initiate an impartial due process hearing on any matter regarding the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child. 34 CFR §300.507. Under the State complaint procedures applicable to complaints involving Part B, at 34 CFR §300.660 - 300.662, a State must adopt procedures for resolving complaints filed by an organization or individual alleging that a public agency has violated a requirement of the Part B statute or regulations.

In the situations raised in your inquiry, we believe that it would be appropriate for the State educational agency or public agency responsible for conducting the due process hearing to appoint a hearing officer. The hearing officer would determine whether, based on the specific facts and circumstances presented, the matters raised in the hearing request relate to the

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identification, evaluation, or educational placement of \_the child, or the provision of a FAPE to the child. Similarly, the SEA or, at the SEA's discretion, the public agency with whom the complaint is filed, would need to ascertain whether the allegations in the complaint constitute a violation of Part B.

In the situation in which a parent believes that her child should have been awarded a regular high school diploma, for example, the parent may be alleging that the school district's diploma policy constituted a denial of FAPE to her child. In the case of a parent who disagrees with the granting of a regular diploma, he may be alleging that his child was inappropriately excluded from special education in violation of IDEA.

We hope that you find this explanation helpful. If we can be of further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of OSEP at (202) 205-5507, or (202) 205-9053, respectively.

Sincerely,

Patricia J. Guard  
Acting Director