



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

MAY 26 2004

Ms. Shari A. Mamas
Staff Attorney
Education Law Center
1901 Law and Finance Building
429 Fourth Avenue
Pittsburgh, Pennsylvania 15219

Dear Ms. Mamas:

This is in response to your letter to the Office of Special Education Programs (OSEP) and the Family Policy Compliance Office (FPCO) regarding the rights of parents of a child with a disability and their representatives to observe their child in a special or regular education classroom. It is our understanding that the FPCO addressed your questions regarding the Family Educational Rights and Privacy Act (FERPA) in a December 8, 2003 letter to you.

Regarding your question to OSEP, you ask that OSEP provide an opinion on whether the Individuals with Disabilities Education Act (IDEA) guarantees parents and their representatives a reasonable opportunity to observe their children's classrooms and proposed placement options. In your letter you state that it is the Education Law Center's position that "a school district's refusal to allow parents and their professional representatives to observe their children in a special education classroom violates the parents' rights under the IDEA to be full and equal participants in the development of an appropriate individualized education program (IEP) for their children."

One of the key purposes of the IDEA Amendments of 1997 is to strengthen and expand the role of parents in the identification, evaluation, and educational placement of their child. The IDEA specifically provides that the parents of a child with disabilities:

- (1) have an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of their child, and the provision of a free appropriate public education to their child (§§300.501(b), 300.344(a)(1), and 300.517));
- (2) be part of any group that determines what additional data are needed as part of an evaluation of their child (§300.533(a)(1)), and determine their child's eligibility (§300.534(a)(1)) and educational placement (§300.501(c));
- (3) have their concerns and the information that they provide regarding their child considered in developing and reviewing their child's IEP (§§300.343(c)(iii) and 300.346(a)(1)(i) and (b)); and
- (4) be regularly informed, as specified in their child's IEP, at least as often as parents are informed of their nondisabled children's progress, of their child's progress

toward the annual goals in the IEP and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year (§300.347(a)(7)).

While the IDEA expects parents of children with disabilities to have an expanded role in the evaluation and educational placement of their children and be participants, along with school personnel, in developing, reviewing, and revising the IEPs for their children, neither the statute nor the regulations implementing the IDEA provide a general entitlement for parents of children with disabilities, or their professional representatives, to observe their children in any current classroom or proposed educational placement. The determination of who has access to classrooms may be addressed by State and/or local policy. However, we encourage school district personnel and parents to work together in ways that meet the needs of both the parents and the school, including providing opportunities for parents to observe their children's classrooms and proposed placement options. In addition, there may be circumstances in which access may need to be provided. For example, if parents invoke their right to an independent educational evaluation of their child, and the evaluation requires observing the child in the educational placement, the evaluator may need to be provided access to the placement.

Regarding your question about the applicability of the No Child Left Behind Act (NCLB) to your question, it is our understanding that the provision that you cite (20 U.S.C. §6318(a)(2)) applies only to Title I schools. If you wish to follow-up on your NCLB question, please feel free to contact Lorraine Wise at (202) 260-1406.

We hope this information is helpful. If this office can be of further assistance, please feel free to contact Dale King at (202) 260-1156.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Lee". The signature is written in a cursive, flowing style.

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: LeRoy S. Rooker
Director, Family Policy and Compliance Office
Lorraine Wise
Office of Elementary and Secondary Education
Dr. Frances Warkomski
Director, Pennsylvania Bureau of Special Education