



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAY 292000

Dr. Jacquelyn J. Thompson
Director
Special Education Services
Michigan Department of Education
P.O. Box 3008
608 West Allegan Street
Lansing, Michigan 48909-7508

Dear Dr. Thompson:

The purpose of this letter is to forward the enclosed letter from to the Michigan Department of Education (MDE), to investigate their allegations as a complaint in accordance with the requirements for Part B of the Individuals with Disabilities Education Act (Part B) at 34 CFR §§300.660-300.662. The enclosed letter includes allegations regarding Garden City Public Schools' (GCPS) response to a request for an independent educational evaluation (IEE). expressed concern because the school district asked them to submit the charges for the IEE to their insurance company.

As one of the Part B procedural safeguards, a parent has the right to an IEE at public expense "if the parent disagrees with an evaluation obtained by the public agency." See 34 CFR §300.502(b). A parent's right to an IEE is available each time the public agency conducts a Part B evaluation, including the child's preplacement evaluation, the triennial reevaluation, or more frequent reevaluations conducted at the request of the child's parent or teacher or if conditions warrant. See 34 CFR §§300.530-300.536. The public agency does have the right, however, to initiate a hearing under 34 CFR §300.507 to demonstrate that its evaluation is appropriate, thereby relieving it of its responsibility to pay for the IEE. See 34 CFR §300.502(b).

Since an IEE must be provided at public expense, it is inconsistent with Federal law for the State and local school districts to adopt policies and/or procedures requiring parents to submit the bills for the cost of an IEE to their private insurance company. Under 34 CFR §300.142(f), a public agency may access a parent's private insurance proceeds only if the parent provides informed consent each time the public agency proposes to access the parent's private insurance. Consistent with the definition of consent at 34 CFR §300.500(b)(1), such consent must fully inform parents that they could incur financial consequences from the use of their private insurance to pay for services that the school district is required to provide under Part B, and that the parents should check with their private insurance provider so that they understand the foreseeable future financial costs to themselves before they give consent. Parents must also be informed that they may refuse to use their private insurance and that their refusal will not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parent.

The GCPS' procedure for an independent evaluation, which is attached for your review, states that "charges for the IEE must first be submitted to your health care insurance company. The remaining balance, if one exists, will be paid by the school district." This procedure violates the requirements of 34 CFR §300.502(b) and 34 CFR §300.142(f).

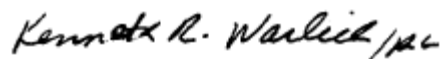
In addition, please investigate whether _____ were improperly denied an IEE under 34 CFR §300.502(b) because GCPS refused to include in the IEE "an evaluation for non-verbal learning disability." Under 34 CFR §300.532(g), the child must be assessed in all areas related to the suspected disability. Parents of a child with a disability have a right to seek at public expense an IEE if the parents disagree with the evaluation because they believe that the child has not been assessed in all areas related to the suspected disability. The local school district must respond to the parent's request for an IEE without unnecessary delay by either paying for the IEE or initiating a due process hearing to show that its own evaluation is appropriate. See 34 CFR §300.502(b)(2).

In addition to providing _____ with a copy of your written report, please send a copy to this Office at the following address:

Ms. Nancy Jenkins
U.S. Department of Education
Office of Special Education Programs
MES 3614
400 Maryland Avenue SW
Washington, DC 20202

Thank you for your assistance with this matter. A copy of our letter to (blacked out) is enclosed for your review.

Sincerely,



Kenneth R. Warlick
Director
Office of Special Education
Programs

Enclosures