



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

dJuly 2, 2001

(Address blacked out)

Dear (Name blacked out):

Dear X:

This is a response to your most recent correspondence dated February 2, 2001, to the Office of Special Education Programs (OSEP) regarding the Florida State Department of Education (FDE) and the X County Public School District. Based on this letter and your previous telephone conversations with OSEP staff, we have determined those areas that appear to be of specific concern to you. These areas are a request for clarification regarding whether the State of Florida operates a one-tier due process system or a two-tier due process system, and OSEP's enforcement responsibility under the Individuals with Disabilities Education Act (IDEA).

On April 23, 2001, OSEP issued its monitoring report assessing FDE's compliance in the implementation of IDEA. Enclosed is a copy of that report. The purpose of the review is to assess compliance in the implementation of the IDEA and to assist Florida in developing strategies to improve results for children with disabilities. In conducting its review of Florida, OSEP applied the standards set forth in the IDEA '97 statute (20 U.S.C. 1400 *et seq.*) and in the Part C regulations (34 CFR Part 303) and Part B regulations (34 CFR Part 300). FDE is currently developing an improvement plan to address issues identified in "Florida's Self-Assessment of Requirements under IDEA, Part B" and to correct areas of noncompliance identified in OSEP's monitoring report. This document is being prepared in response to OSEP's Continuous Improvement Monitoring Process.

In order to be eligible for a grant under Part B of IDEA, a State must demonstrate to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the conditions set forth in section 612(a) of IDEA and its implementing regulations at 34 CFR Part 300 (20 U.S.C. section 1412(a)). To meet this requirement, a State must have on file with the U.S. Secretary of Education copies of all applicable State statutes, regulations, and other State documents that show the basis for information regarding the State's eligibility for assistance under Part B of the IDEA. (34 CFR 300.110). Final policies, procedures and regulations implementing IDEA '97 were required to be submitted with the States' Federal fiscal year 2000 applications. In April 2000, Florida submitted its final policies, procedures and the Florida Statutes and State Boards of Education Rules implementing IDEA '97. Florida has submitted an assurance that throughout the period of the current grant award all public agencies will comply with the IDEA requirements and that Florida will resolve all of the issues identified in OSEP's review of the State's eligibility documentation.

You may request the eligibility documents under the Freedom of Information Act (FOIA). Due to the length of such documents, the volume of requests, and agency costs, requests for copies of such documents must be made under the FOIA. The request should be in writing and should specify the year and type of document needed. The request should be submitted to:

Mr. Martin Benton  
FOIA Coordinator for OSEP  
MES, Switzer, Room 3123  
330 C Street, S.W.  
Washington, D.C. 20202

You may also request these documents from the FDE. The FDE contact information is:

Ms. Shan Goff  
Bureau Chief  
Bureau of Instructional Support and  
Community Services  
Florida Department of Education  
Florida Education Center  
325 West Gaines Street, Suite 614  
Tallahassee, Florida 32399-0400

With respect to your concern regarding whether the FDE operates either a one-tier or two-tier due process system, OSEP staff clearly stated to you in previous telephone conversations that the FDE has chosen to implement a one-tier due process hearing system. Each State may establish, at its discretion, either a procedure by which the State educational agency (SEA) or the public agency directly responsible for the education of the child conducts due process hearings. Each State may determine whether the SEA or the public agency directly responsible for the education of the child will conduct the due process hearing as determined under State statute, State regulation, or a written policy of the SEA. (20 U.S.C. section 1415(b)(f)). As part of its monitoring review of the FDE and review of Florida's eligibility documents, OSEP determined that the FDE operates a one-tier due process procedure.

We are also enclosing a letter dated March 30, 2001 from the Acting Director of OSEP and the Acting Deputy Assistant Secretary of Civil Rights regarding the application of the requirements of IDEA and Section 504 of the Rehabilitation Act of 1973 to Florida's Opportunity Scholarship Program legislation.

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We hope that you find this information helpful. If you need further assistance, please call Mr. Troy Justesen at 202-205-9053, or Ms. Sheila Friedman, the Florida State contact person at OSEP, at 202-205-9055.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures: Florida IDEA Compliance Report  
Letter to Mr. John W. Bowen re: Florida Opportunity Scholarship Program

cc: Ms. Shan Goff  
Florida State Department of Education