



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

NOV 18 1997

Honorable Sandy Garrett
State Superintendent of Public
Instruction
Oklahoma State Department of
Education
2500 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105-4599

Dear Superintendent Garrett:

This is in response to your letter written to the office of Special Education Programs (OSEP), dated October 3, 1997, concerning the responsibility of the State educational agency (SEA) under Federal law for oversight and implementation of the requirements of Part B of the Individuals with Disabilities Education Act (Part H of IDEA), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). Your questions and OSEP's responses follow.

1. Under the IDEA, is the SEA the agency which has the single line of authority and oversight responsibility for the implementation of the IDEA in the state? If the answer to this question is yes, do the IDEA Amendments of 1997 address any exceptions to this rule?

The answer to both of your questions is yes. Federal law clearly establishes that the SEA is the entity of State government that must exercise general supervision over all education programs for children with disabilities administered within the State. Since the predecessor statute to IDEA '97 was enacted in 1975, as a condition of eligibility for receipt of Part B funds from the Department, the SEA has been required to exercise general supervision over all education programs for children with disabilities administered within the State, including any such program administered by any other public agency. This statutory provision assigns the SEA the ultimate responsibility and authority under Federal law for ensuring that the requirements of Part B of IDEA and the education standards of the SEA are met in those programs. IDEA '97 essentially adopts prior law in this area and continues to make the SEA's general supervisory responsibility a condition of eligibility for the State's receipt of IDEA funds, with one limited exception. Section 612(a)(11)(A).

Section 612(a)(11)(C) provides that, notwithstanding the SEA's general supervisory responsibility, if consistent with State law, the Governor or other authorized State official may assign to any public agency in the State the responsibility for ensuring that the requirements of Part B of IDEA are met for children with

disabilities convicted as adults under State law and incarcerated in adult prisons. This statutory provision is the only exception to the SEA's general supervisory responsibility and authority under Federal law over all education programs for children with disabilities administered within the State. Therefore, OSEP believes that, with this one specific limited exception, section 612(a)(11) unequivocally establishes the SEA's primary oversight responsibility and authority under Federal law for ensuring that the requirements of Part B of IDEA and the education standards of the SEA are met in all education programs for children with disabilities administered within the State.

2. Under the IDEA, is the SEA the agency of state government exclusively authorized, and responsible, to receive and investigate complaints regarding the educational programs for students with disabilities?

The current regulations implementing Part B of IDEA contain State complaint procedures at 34 CFR §§300.660-300.662. These State complaint procedures, which are an extension of the SEA's general supervisory responsibility and authority under Federal law over all education programs for children with disabilities administered within the State, afford organizations and individuals the right to file a signed written complaint alleging that a public agency has violated a requirement of Part B of IDEA. The current regulations provide in relevant part:

§300.660 Adoption of State complaint procedures.

Each SEA shall adopt written procedures for:

(a) Resolving any complaint that meets the requirements of §300.662 by --

(1) Providing for the filing of a complaint with the SEA; and

(2) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint. 34 CFR §300.660(a).

The current regulation confers on the SEA the primary responsibility and authority under Federal law for resolving complaints involving Part B of IDEA. Generally, if a violation of Part B of IDEA is found through the State complaint process, the SEA is the entity in a State that has ultimate authority to resolve the complaint. This includes (1) confirming that a requirement of Part B of IDEA has been violated, and (2), if appropriate, prescribing corrective action to address the violation. This is because, with the one statutory exception in IDEA '97 noted above, the SEA is the entity in the State with primary responsibility and authority under Federal law for oversight of all education programs for children with , disabilities administered within the State.

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As you may be aware, the Department is in the process of revising the federal regulations to implement the statutory changes made by IDEA '97. We would welcome your comments and input on the issue of the complaint procedures or on any aspect of the proposed rulemaking that was published in the Federal Register on October 22, 1997 (copy enclosed).

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas Hehir", with a stylized flourish at the end.

Thomas Hehir
Director
Office of Special Education
Programs

Enclosure

cc: Mr. John Corpolongo