



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAY 1 2000

Paul L. Erickson, Esquire
1998 Hendersonville Road, Building 1, Suite 3
Asheville, NC 28803

Dear Mr. Erickson:

We write in response to your September 22, 1999 letter. You informed us of North Carolina's application of a sixty-day statute of limitations under its Administrative Procedures Act to a request for a due process hearing (or administrative review) for all claims under the Individuals with Disabilities Education Act (IDEA), codified at 20 U.S.C. § 1400 *et seq.*

As you may know, the Department of Justice, on behalf of the Department of Education, filed an amicus brief in an appeal to the Fourth Circuit U.S. Court of Appeals in a case arising out of North Carolina that raises this issue: *ME. and P.E. on their behalf and on behalf of their minor son, C.E. v. The Board of Educ. for Buncombe County*. In the brief, the Government stated that North Carolina's application of a sixty-day limitation period to administrative reviews of all IDEA claims is inconsistent with the purposes and policies of, and other rights under, the IDEA.

A copy of the brief is enclosed for your reference. You indicated in your letter that you were responding in part due to a letter you received from North Carolina's state educational agency. By copy of this letter (including a copy of the enclosed brief) to Mr. E. Lowell Harris, we are informing him of this response.

If you or Mr. Harris have further questions or wish to discuss this issue further, please contact Dr. JoLeta Reynolds at (202) 260-7243 or me.

Sincerely,

Kenneth R. Warlick
Director
Office of Special Education Programs

Enclosure

cc: Mr. E. Lowell Harris
Director, Exceptional Children Division
North Carolina State Board of Education .