



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

NOV 28 2007

Lawrence W. Berliner
Klebanoff and Alfano, P.C.
433 South Main Street, Suite 102
West Hartford, CT 06110

Dear Mr. Berliner:

This letter is in response to your August 1, 2007 letter regarding a complaint filed, by the parents of a child receiving services under Part C of the Individuals with Disabilities Education Act (IDEA), with the Connecticut State lead agency, the Connecticut Birth to Three System, against your client, a Connecticut early intervention service (EIS) provider. Specifically, you ask whether your client, the EIS provider, should have been provided: (1) a copy of the parents' complaint; and (2) an opportunity "to respond or to provide all relevant information to the Birth to Three System," before the Birth to Three System reached a conclusion that there was noncompliance with Part C. Your letter cited your experience with the complaint resolution procedures under Part B of the IDEA.

The Part B complaint procedures were revised in August 2006 to implement the IDEA 2004 amendments. See 71 *Federal Register* 46540 (August 14, 2006). Specifically, the Part B complaint procedures now expressly require that:

- (1) The complainant forward a copy of the complaint to the local educational agency (LEA) or public agency serving the child at the same time that the complainant files the complaint with the State educational agency (SEA) under 34 CFR §300.153(d); and
- (2) The SEA provide the public agency with an opportunity to respond to the complaint, including any proposal to resolve the allegations in the complaint and an opportunity for mediation under 34 CFR §303.152(a)(3).

The current Part C complaint resolution provisions in 34 CFR §§303.510 through 303.512 do not include such provisions, although such provisions are included in the proposed Part C regulations published on May 9, 2007. See 72 *Federal Register* 26456 (Part C Notice of Proposed Rulemaking - May 9, 2007). If the Part C proposed regulations in 34 CFR §§303.433(a)(3) and 303.434(d) are finalized as proposed, then the requirements in the current Part B regulations cited above would also apply to the lead agency's resolution of complaints under Part C.

The current Part C regulation at 34 CFR §303.512(a) does require the lead agency to carry out an independent on-site investigation, if the lead agency determines that such an investigation is necessary; give the complainant (the parent in this case) the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; review all relevant information and make an independent determination as to whether the EIS provider or public

agency is violating Part C; and issue a written decision to the complainant that addresses each allegation in the complaint.

Based on your letter, along with a review of both the parents' complaint and the decision of the Connecticut lead agency, the information demonstrates that an investigation was conducted by the lead agency, the complainant was provided an opportunity to submit additional information, and a decision was issued that responds to the parents' allegations in the complaint.

If you have further questions about the requirements of the Part C complaint resolution process, please do not hesitate to contact Deborah Morrow of my staff at 202-245-7456.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia J. Guard". The signature is written in a cursive style with a large initial "P".

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: Linda Goodman