



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

SEP 18 2015

Teri Johnson Chapman, Ed.S.
Director, Office of Special Education
Michigan Department of Education
P.O. Box 30008
Lansing, MI 48909

Dear Dr. Johnson Chapman:

The purpose of this letter is to inform you of the actions the Michigan Department of Education (MDE) must take as the result of a recently issued policy letter from the Office of Special Education Programs (OSEP) to Ms. Marcy Lipsitt, regarding the State complaint procedures in 34 CFR §§300.151 through 300.153 of regulations implementing the Individuals with Disabilities Education Act (IDEA). Ms. Lipsitt's inquiry to OSEP was prompted by the outcome of an MDE complaint resolution. In its letter to Marcie Lipsitt (*Letter to Lipsitt*), OSEP concluded that, the requirement to issue a written decision to the complainant pursuant to 34 CFR §300.152(a)(5) applies regardless of whether an SEA resolves a State complaint through its own investigation or by accepting the local educational agency's (LEA) proposal to resolve the complaint pursuant to 34 CFR §300.152(a)(3)(i). In either circumstance, within 60 days of the date that the complaint was filed, subject to allowable extensions, an SEA is required to issue a written decision to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision. I have enclosed a copy of OSEP's *Letter to Lipsitt* for your review.

According to MDE's written decision in 14-00270, MDE does not issue written decisions when an LEA's proposal to resolve the State complaint is accepted by the State. We are notifying MDE by this letter that its State complaint procedures in this regard appear to be inconsistent with 34 CFR §300.152(a)(5) of the Part B regulations. We find nothing in Part B that relieves an SEA of its responsibility to issue a written decision to the complainant when the SEA resolves a State complaint by accepting the LEA's proposal to resolve the complaint developed pursuant to 34 CFR §300.152(a)(3)(i). Therefore, within 45 days of the date of this letter, MDE must provide written evidence to OSEP that the following has occurred: MDE clarified its State complaint policies and procedures to ensure that once MDE resolves a State complaint, whether it be through its investigation or by accepting the LEA's proposal developed pursuant to 34 CFR §300.152(a)(3)(i) to resolve the complaint, within 60 days of the date that the complaint was filed, subject to allowable extensions, an SEA is required to issue a written decision to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision. 34 CFR §300.152(a)(5).

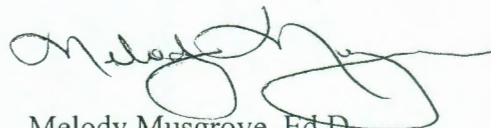
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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

We look forward to working with MDE to resolve these apparent inconsistencies with IDEA. If you have any questions, please do not hesitate to contact Daniel Schreier at 202-245-6552 or by email at Daniel.schreier@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

Melody Musgrove, Ed.D
Director
Office of Special Education Programs

Enclosure



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

SEP 18 2015

Ms. Marcie Lipsitt
27260 Willowgreen Court
Franklin, Michigan 48025

Dear Ms. Lipsitt:

This is in response to your August 9, 2014 correspondence requesting clarification from the Office of Special Education Programs (OSEP) regarding a State educational agency's (SEA) responsibility for resolving a State complaint under 34 CFR §§300.151-300.153 of the regulations implementing the Individuals with Disabilities Education Act (IDEA). I apologize for the delay.

You ask whether an SEA must issue a written decision under 34 CFR §§300.151-300.153 when the SEA accepts a local educational agency's (LEA) proposal for resolution of a State complaint under 34 CFR §300.152(a)(3)(i). As stated in the Analysis of Comments and Changes –

34 CFR §300.152(a)(3) was proposed to encourage meaningful, informal, resolution of disputes between the public agency and parents, organizations, or other individuals by providing an opportunity for parties to resolve disputes at the local level without the need for the SEA to resolve the matter. We believe that, at a minimum, the State's complaint procedures should allow the public agency that is the subject of the complaint the opportunity to respond to a complaint by proposing a resolution and provide an opportunity for a parent who has filed a complaint and the public agency to resolve a dispute by voluntarily engaging in mediation. 71 Fed. Reg. 46540, 46603 (Aug. 14, 2006).

Once an SEA resolves a State complaint, whether it be through its investigation or by accepting the LEA's proposal developed pursuant to 34 CFR §300.152(a)(3)(i) to resolve the complaint, within 60 days of the date that the complaint was filed, subject to allowable extensions, an SEA is required to issue a written decision to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision. 34 CFR §300.152(a)(5).

Your correspondence also raises a series of questions regarding an SEA's ability to use the U.S. Department of Education's Office for Civil Rights (OCR) guidance and other SEAs' policies and procedures to reach a resolution in a State complaint under 34 CFR §§300.151-300.153. Neither the IDEA, nor its implementing regulations, specifically address whether an SEA may rely on OCR guidance or another SEAs' policies and procedures to resolve a State complaint. The SEA is in the best position, and should have the flexibility, to determine what information is necessary to resolve a complaint, based on the facts and circumstances of the individual case. The minimum State complaint procedures in 34 CFR §300.152 are intended to be broad in

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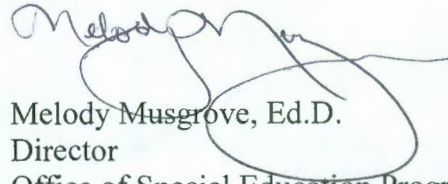
recognition of the fact that States operate differently and standards appropriate to one State may not be appropriate in another State. 71 Fed. Reg. 46540, 46602 (Aug. 14, 2006).

OSEP is the office within the U.S. Department of Education that is responsible for administering the IDEA. Therefore, if an SEA elects to use guidance from other sources, in its resolution of Part B State complaints, an SEA should ensure that such guidance is consistent with the IDEA and its implementing regulations, and applicable written policy guidance from OSEP interpreting these IDEA requirements.

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.

If you have questions, please do not hesitate to contact Jennifer Wolfsheimer at 202-245-6090 or by email at Jennifer.Wolfsheimer@ed.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Melody Musgrove", is written over a circular stamp or seal.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

cc: Teri Johnson Chapman, Ed.S., Michigan State Director of Special Education