



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

January 19, 2011

XXXX XXXX XXXX
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XXXX XXXX XXXX

XXXX XXXX:

This is in response to your July 18, 2010 letter to Patricia Guard, former Deputy Director of the Office of Special Education Programs at the U.S. Department of Education. In your letter, you ask, "If a parent requests an IEP [individualized education program] meeting at which she plans to present a private evaluation, may the LEA [local educational agency] require that the private report be delivered to the school system in advance of the meeting date being determined, not merely in advance of the meeting?"

Background and Legal Requirement

According to your letter, "Outside evaluations must be delivered more than 10 days (in order to allow required notice), as much as 30 days (timeline for scheduling a parentally requested meeting) before the meeting." Part B of the Individuals with Disabilities Education Act (Part B of the IDEA) does not prescribe timelines for when private evaluations must be provided to a public agency before an IEP Team meeting can be scheduled to discuss the results of that evaluation. However, under 34 CFR §300.502(c)(1), if a parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the public agency is required to consider that evaluation in any decision regarding the provision of a free appropriate public education to the child with a disability if the agency determines that the parent-initiated evaluation meets agency criteria.

Analysis and Conclusion

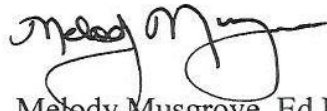
We believe it would be reasonable for a public agency to establish criteria, including a requirement that it receive the entire evaluation report and not just the scaled scores by a certain time, to give the public agency the opportunity to review the report prior to scheduling an IEP Team meeting to discuss that evaluation. Such criteria would need to be provided to parents in advance or otherwise made available publicly so that individuals seeking an independent educational evaluation are fully informed. Because this matter is not addressed in Part B of the IDEA, you may wish to contact the Maryland State Department of Education (MSDE) to determine whether the timelines prescribed by the school district are consistent with any State standards imposed by MSDE. For further clarification, we suggest that you contact:

Dr. Carol Ann Heath
Division of Special Education/Early Intervention Services
Maryland State Department of Education
200 West Baltimore Street, 9th Floor
Baltimore, Maryland 21201-2595
Telephone: 410-767-0283

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.

I hope this information is helpful to you. If you have additional questions about this issue, please do not hesitate to contact Dwight Thomas at 202-245-6238, or by email at Dwight.Thomas@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Melody Musgrove, Ed.D.

Director

Office of Special Education Programs

cc: Dr. Carol Ann Heath
Maryland State Department of Education