

Colorado Department of Education
Decision of the Federal Complaints Officer
Under the Individuals with Disabilities Education Act (IDEA)

Federal Complaint 2000:537
Fort Lupton School District RE-8

Decision

INTRODUCTION

On October 17, 2000, the Federal Complaints Officer received, by fax, the complainants' Complaint, dated October 15, 2000. The school's response to the Complaint was dated November 6, 2000, and received by the Federal Complaints Officer, by fax, on November 8, 2000, and by regular mail on November 13, 2000. Additional information was received by fax from the school's attorney, dated and received November 9, 2000, and received by regular mail on November 13, 2000. In a certified letter dated November 10, 2000, and postmarked November 13, 2000, the Federal Complaints Officer sent the complainants' a copy of the school's response, including the information from the school's attorney, providing them with ten (10) days to submit a response. The complainants did not obtain this certified mailing until November 25, 2000. In a subsequent non-certified mailing of November 22, 2000, the complainants were sent the school's response a second time, and given until November 29, 2000 to submit a response.

The Federal Complaints Officer obtained a telephone number for the complainants (the number is unlisted), from a school staff person on November 27, 2000. By telephone call of November 28, 2000 to the complainants, the Federal Complaints Officer confirmed that the complainants received the certified mailing on November 25, 2000, and the non-certified on November 27, 2000. The complainants told the Federal Complaints Officer that they would fax their response to the school's response to their Complaint, to the Federal Complaints Officer on that date. On November 28, 2000, with a letter date of November 28, 2000, the Federal Complaints Officer received a fax from the complainants. The Federal Complaints Officer then closed the record.

FINDINGS AND DISCUSSION

Due to a miscommunication between the Federal Complaints Officer and the Director of Special Education, the Federal Complaints Officer mistakenly accepted the complainants' letter of October 15, 2000 as a Complaint. The letter of the complainants dated October 15, 2000, and received by the Federal Complaints Officer on October 17, 2000, does not make allegations over which the Federal Complaints Officer has jurisdiction because the complainants' son is not a student covered by the Individuals with Disabilities Education Act (IDEA). The Federal Complaints Officer does not have jurisdiction to address complaints concerning students not covered by IDEA. This Complaint is therefore dismissed for lack of jurisdiction.

The Federal Complaints Officer directs the complainants to the local Director of Special Education and Gifted Programs, to address their concerns about education for the gifted for

their son. Any concerns about access to their son's educational records under the Family Education and Rights Privacy Act (FERPA), should also be addressed to local school administration.

CONCLUSION

This Decision shall become final as dated by the signature of the Federal Complaints Officer. A copy of the appeal procedure is attached to this Decision.

Dated today, December _____, 2000.

Charles M. Masner, Esq.
Federal Complaints Officer