

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

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**Federal Complaint 2000:538**  
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 dated and received November 9, 2000, by fax, from the school's attorney, with an original of this communication received by regular mail on November 13, 2000.

In a letter dated November 10, 2000, and postmarked November 13, 2000, the Federal Complaints Officer sent the complainants a copy of the school's response to their Complaint, 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 mailing 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 29, 2000, with a letter date of November 28, 2000, the Federal Complaints Officer received a fax from the complainants, regarding a companion Complaint. No further information was received from the complainants. The Federal Complaints Officer then closed the record.

**COMPLAINANTS' ALLEGATIONS**

In essence, the complainants allege that they are the natural parents of (the child) as defined by 34 CFR 300.20, and that the school has not been treating them as such. Most specifically, that the school has denied them access to their son's records. The complainants further allege that a necessary transfer IEP meeting was not held.

## **SCHOOL'S RESPONSE**

The school's response is that the complainants have not enrolled their preschool age son in school, and that therefore the school is not violating any rights of the complainants which the school is legally required to recognize.

## **FINDINGS AND DISCUSSION**

Complainants' son, of preschool age, needs to be enrolled in school for the school to be required to provide him with any services to which he is entitled from the school. It is the understanding of the Federal Complaints Officer that the complainants are entitled to enroll their son in school. It is also the understanding of the Federal Complaints Officer that the school is aware of complainants' son, and that the school has been in communication with those who have custody of complainants' son, for the purpose of determining how the complainants' son's current needs are being met.

There has been no disagreement between the complainants and the school presented to the Federal Complaints Officer, that the complainants are not the natural parents of this child. Neither is there anything else in the record before the Federal Complaints Officer to indicate otherwise. There is also, however, evidently no dispute that on June 21, 2000, a Colorado state judge entered an order stating - "Court orders mother not to come within 500 yds. of foster family, foster mom, day care, and school or children." The father is not mentioned in the document provide to the Federal Complaints Officer. Neither the complainants nor the school have provided the Federal Complaints Officer with any more court documentation than this, as to court ordered restrictions placed upon the complainants' relationship to their son.

To the best of the Federal Complaints Officer's knowledge, the complainants, as natural parents, are entitled to be the parent spokespersons for their son, with the school, as defined by 34 CFR 300.20, unless their "...authority to make educational decisions on the child's behalf has been extinguished under state law..." Id. at 34 CFR 300.20(b)(1). It is not clear to the Federal Complaints Officer whether it was the intent of the Colorado state judge to include in her order of June 21, 2000 that one or both of the complainants have their authority to make educational decisions for their son taken away. Based upon the information provide to him, the Federal Complaints Officer does not find that this was the judge's intent. However, the Federal Complaints Officer advises the complainants that if they obtain an order from the judge clarifying that their authority to make educational decisions for their son has not been taken away – it would promote resolution of any further dispute with the school over their authority as parents to be spokespersons for their son with the school. The Federal Complaints Officer refers the complainants to the advice of their own legal counsel about obtaining such clarification. The Federal Complaints Officer likewise advises the school that the school would be well advised to consult the school's legal counsel as to the most appropriate way to incorporate any court orders for this child as a part of the school's educational planning and programming for this child. The Federal Complaints Officer finds that the school has not violated any rights of the complainants to be considered a parent as defined by 34 CFR 300.20.

To the best of the Federal Complaints Officer's knowledge, there are no school records in possession of the school, to which the complainants are entitled, and do not already have copies, subject to the jurisdiction of this Federal Complaint process. The Federal Complaints

Officer finds no violation by the school of the complainants' rights to access their child's records, as specified by 34 CFR 300.501 and 1 CCR 301-8 2220-R-6.01(1).

**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.

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Charles M. Masner, Esq.  
Federal Complaints Officer