

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

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**Federal Complaint 2003:503**

Denver Public Schools

**Decision**

**INTRODUCTION**

This Complaint was dated February 4, 2003, and received by the Federal Complaints Officer on February 7, 2003. The school district's response was dated February 25, 2003. A faxed copy, without attachments, was received the same date. The original, with attachments, was received by the Federal Complaints Officer on February 28, 2003. A subsequent fax, dated March 6, 2003, was received from the school district correcting an error in date on page two (2), line four (4), of the school district's response, with an original of the correction received on March 12, 2003. The complainant's response to the school district's response was dated March 7, 2003, and received by the Federal Complaints Officer on March 12, 2003. The Federal Complaints Officer then closed the record.

**COMPLAINANT'S ALLEGATION**

The complainant alleged that the school district deprived the student of a free appropriate public education (FAPE) from April 15, 2002, and continued to do so as of the date of the Complaint.

**SCHOOL DISTRICT'S RESPONSE**

The school district responded, in relevant part, as excerpted by the Federal Complaints Officer:

The District admits that the student was not enrolled in school or provided special education or related services beginning April 15, 2002, through January 31, 2003, when the student began attending Laradon Hall. The District is responsible for ensuring that the student is provided with FAPE and recognizes the need to refine the system for tracking students placed outside the district. It is unfortunate that, although a multitude of agencies, service providers and advocates are reported to be working to support and/or protect the interests of this family, neither the advocacy organization nor the

Denver Department of Human Services brought this serious matter to the attention of authorities within the school district or questioned why this student was not participating in an educational program. Had the parent, the advocate and/or the Denver Department of Human Services brought this issue to the attention of an administrator within the Department of Student Services, a remedy would have been sought in a timely manner (the Child Find Team directed to complete necessary evaluations and conduct an IEP meeting).

The District acknowledges that the student is entitled to compensatory education for the period of time that she was not in school, facility program and/or hospital (April 15, 2002 through January 31, 2003). The District will provide compensatory education to the extent that it is an appropriate remedy for the denial of a free appropriate public education. To achieve this end, the District will require that an IEP meeting be held. The team (of which the parent, the Denver Department of Human Services caseworker and other persons at the discretion of the parent, are members) will determine the services necessary to compensate for missed programming. School district's response at page three (3).

## **FINDINGS AND DISCUSSION**

To the school district's response, the complainant responded, in relevant part, as excerpted by the Federal Complaints Officer: "DPS stated that it is unfortunate that a 'multitude of agencies, service providers, and advocates' worked with the family and didn't bring this matter to the attention of DPS. They did bring it to the attention of DPS, and nothing was done. ... We agree that an IEP meeting must be held immediately, not only to discuss the compensatory education that [student] is entitled to, but how she is going to be served at this time." *Id.* The Federal Complaints Officer finds that this student was denied a FAPE, under the Individuals with Disabilities Education Act (IDEA), from April 15, 2002 through January 31, 2003.

## **REMEDY**

If this student can benefit from compensatory education, she is entitled to receive it. The Federal Complaints Officer directs that the school district, if it has not already done so by the date of this Complaint Decision, convene an IEP meeting to determine whether, and if so what, compensatory education would benefit this student, and to provide any such services as necessary and appropriate – and, to also determine at this IEP meeting ongoing services for this student. In addition, the Federal Complaints Officer directs the Executive Director of Student Services to provide the Federal Complaints Officer with a written statement of assurance that relevant district policies and procedures for keeping track of the students it is obligated to serve under IDEA have been reviewed and that any necessary changes have been made, and that any necessary staff have been advised of their responsibilities under these policies and procedures. The Federal Complaints Officer knows of no reason why such policies and procedures would not

be considered public records under Colorado law, and, in any case, directs the school district to provide the complainant with a copy of these policies and procedures upon request by the complainant.

The ordered statement of assurance shall be provided to the Federal Complaints Officer within thirty (30) days of the date of the school district's receipt of this Decision. The IEP meeting ordered, if it has not already been held by the time of the school district's receipt of this Decision, shall be held within thirty (30) days of the school district's receipt of this Decision, unless otherwise agreed to by the parties.

### **CONCLUSION**

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

Dated today, March 31, 2003.

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Charles M. Masner, Esq.  
Federal Complaints Officer