

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

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**Federal Complaint 2004:504**

Mesa County Valley District No. 51

**Decision**

**INTRODUCTION**

The Complaint letter (Complaint) was filed by the Legal Center for Disabilities and Older People (Complainant) on [Child]. The Complaint was dated 04/12/04 and received on 04/15/04.

The response of the Mesa County Valley District No. 51 (District) to the Complaint was dated 05/03/04 and received on 05/07/04. Complainant's response to the District's response was dated 05/21/04 and received on 05/27/04.

In order to obtain additional information, the Federal Complaints Officer spoke by telephone with the following individuals:

06/04/04 - David Price, Esq., attorney for the District. The Federal Complaints Officer contacted Mr. Price to request copies of any written Board policies and/or procedures that address the enrollment/admission and/or denial of admission of students. The Federal Complaints Officer also elicited more specific information from Mr. Price regarding the facts surrounding the child's placement and enrollment in the District.

06/04/04 – Sheila Strauss, the child's current caseworker and employee of the Garfield County Department of Social Services (GCDSS). The Federal Complaints Officer contacted Ms. Strauss in order for to obtain more specific information regarding the facts surrounding the child's placement and enrollment in the District.

06/07/04 – Marietta Muckerman, the child's intake caseworker and employee of the GCDSS. The Federal Complaints Officer contacted Ms. Muckerman in order to obtain more specific information regarding the facts surrounding the child's placement and enrollment in the District.

06/07/04 – Diane Watkins, Records Manager for the West (Rifle) Office of the GCDSS. The Federal Complaints Officer contacted Ms. Watkins to obtain copies or the child's file.

06/07/04 – Denise Young, Assistant County Attorney for Garfield County and attorney for GCDSS. The Federal Complaints Officer contacted Ms. Young in order to obtain

more specific information regarding the facts surrounding the child's placement and enrollment in the District.

06/07/04 – Becky Rippey, assistant to Thomas Silverman, guardian *ad litem* for the child. The Federal Complaints Officer contacted Mr. Silverman's office to learn whether the Garfield County District Court had granted Mr. Silverman educational decision-making authority on behalf of the child.

06/07/04 – [Legal Guardian] for the child as of 06/02/04. The Federal Complaints Officer contacted [Legal Guardian] regarding any concerns that he may have had regarding the child's placement and enrollment in the District.

06/07/04 – William J. Higgins, Esq., attorney for the Complainant. The Federal Complaints Officer contacted Mr. Higgins to ascertain what the Complainant's position was regarding this pending Complaint in light of the fact that on 06/02/04 the Garfield County District Court transferred legal guardianship from the GCDSS back to the child's former guardians, who reside in Rifle, Garfield County, Colorado.

06/08/04 – Telephone conference call with District staff – Denise Hochter (elementary school principal), Judy Thornburg (District special education director), Sarah Sonnier (special education teacher), and Jan Blair (special education director for the cluster area that includes the elementary school attended by the child). David Price, Esq., attorney for the District, also participated in this telephone conference call. The Federal Complaints Officer interviewed these individuals in order to obtain additional and more specific information regarding (1) the child's enrollment and placement in the District, and (2) the special education program developed by the District for [Child], including when the program became available, the nature of the program, and [Child's] progress.

On 06/14/04, the Federal Complaints Officer closed the record.

### **COMPLAINANT'S ALLEGATIONS**

The Complaint generally alleges that, on or about 03/18/04, the foster mother of [Child] tried to enroll [Child] at the child's neighborhood school in the District. According to Complainant, at that time the foster parent provided school officials with the emergency court order which resulted in the placement of the child with the foster parent. School personnel informed the foster parent that additional information was needed. By 03/26/04, the District obtained [Child's] then current IEP from Garfield Re-2 School District (GCSD) and became aware of the special education services that [Child] was receiving. According to Complainant, the District has repeatedly denied [Child] admission to the District and, as of the date of the Complaint (i.e., 04/12/04), [Child] had not received any educational services whatsoever from the District, nor had the District begun to take any initial steps to provide special education services, including providing the child with an educational surrogate parent or conducting an IEP team meeting. Complainant believes that the District's reasons for refusing to enroll [Child] are two-fold: (1) Because Garfield County Department of Social Services (GCDSS) failed to comply with Colorado statutes requiring notice and cooperation between a placement agency and school

district when a child is moved from one district to another, the District does not believe that it is obligated to serve [Child], and (2) the District does not have the educational services to serve [Child]. The Complaint states that the District has no plans to enroll [Child] in the foreseeable future.

The Complaint asks the federal complaints officer to exercise her emergency powers under the state federal complaints procedure in order to intervene immediately on behalf of [Child]. The Complaint further requests the federal complaints officer to issue an order directing the District to:

1. enroll [Child] in his neighborhood school;
2. appoint a surrogate parent for [Child];
3. convene a meeting of the IEP team immediately after appointment of the surrogate parent;
4. implement the services set forth in the student's IEP from GCSD; and
5. provide compensatory educational services for the school days missed by [Child] since the time that the foster parent first tried to enroll him in the District.

The Complaint also reserves any right of Complainant to seek attorney's fees.

### **THE DISTRICT'S RESPONSE**

The District first challenges the jurisdiction of the federal complaints officer, claiming that (a) the Complainant does not have standing to bring the Complaint, and (b) the Complaint fails to allege a systemic violation of the IDEA by the District but, instead, alleges violations on behalf of [Child], which claims are proper in a due process hearing context but improper in the context of a federal complaint. The District denies the other allegations in the Complaint. The District affirmatively states that [Child] was enrolled in the District on 04/14/04 and that it is providing services consistent with [Child's] GCSD IEP.

### **COMPLAINANT'S RESPONSE TO THE DISTRICT'S RESPONSE**

In response to the District's response, Complainant agrees that the principal issues in the Complaint are moot due to the District's enrollment of [Child] on 04/14/04. "Thus, the only issues left for the complaint officer's consideration is the request for compensatory educational services and attorneys fees."

**COMPLAINANT’S REQUEST THAT THE FEDERAL COMPLAINTS OFFICER  
EXERCISE HER EMERGENCY POWERES**

The Complaint requested the Federal Complaints Officer to exercise the emergency powers authorized by paragraph 11 of the Colorado Department of Education’s (CDE) federal complaints procedure. On 04/19/04, the Federal Complaints Officer contacted Ms. Judy Thornburg, the District’s special education director, to learn what the child’s enrollment status was with the District. On that date, Ms. Thornburg stated that the child was enrolled in the District on 04/13/04 and was receiving special education services consistent with the child’s current IEP. Based on this information, the Federal Complaints Officer determined that it was unnecessary to exercise her emergency powers. The Federal Complaints Officer notified the Complainant and Ms. Thornburg of this determination via phone on 04/19/04 and via a follow-up letter on 04/22/04, a copy of which is attached to this Decision.

**FINDINGS OF FACT AND CONCLUSIONS**

The Federal Complaint Officer makes the following findings of fact:

- 1) [Child] is a child with a disability under the IDEA and is therefore eligible for special education services.
- 2) On or before 03/18/04, the Garfield County District Court (Court) issued a Shelter Care Order, which removed [Child] from his home with his aunt and uncle (his guardians) in Rifle, Colorado. The Court placed [Child] in the temporary legal and physical custody of GCDSS in an emergency out-of-home placement. On or before 03/24/04, the Court issued a second order, which maintained temporary legal and physical custody of [Child] with GCDSS.<sup>1</sup> A written order (Order) to this effect was issued on 03/24/04. The GCDSS did not supply the District with a copy of the Order until 04/14/04 when it was submitted by [Child’s] GCDSS caseworker upon registering [Child] in the District.
- 3) On or before 03/23/04, [Child] became a resident of the District by virtue of his placement with foster parents who lived in the District. See, Colo. Rev. Stat. § 19-1-115 (1)(a)(2).
- 4) Prior to placing [Child] with his foster parents, GCDSS failed to comply with various state statutory provisions governing the placement of children with disabilities when other agencies are involved. See, Colo. Rev. Stat. §§ 22-20-108 (7) and 19-1-115.5 (2)(b). Such provisions contemplate that that there will be prior cooperation and collaboration by county social service departments with school districts in which out-of-home placements may be made to consider the ability of the districts in which proposed foster home are located to provide special education services. See, also, 1986 Interagency Agreement between the Colorado Department of Education (CDE) and the

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<sup>1</sup> See, Continued Shelter Care Order of the Garfield County District Court dated 03/24/04.

Colorado Department of Social Services [now known as the Colorado Department of Human Services (Interagency Agreement)].<sup>2</sup>

- 5) At all times relevant to this Complaint, the rights of [Child's] natural parents had not been terminated under state law. Although GCDSS may have had the legal authority to enroll [Child] in the District (a regular education decision), GCDSS did not have the legal authority to make special education decisions for [Child] under the IDEA. See, §§300.20 300.515 (c)(2).
- 6) At all times relevant to this Complaint, [Child's] foster parents had no educational decision-making authority for [Child].<sup>3</sup> Specifically with regard to special education decision-making authority, the foster parents were not "parents" of [Child] under the IDEA because the rights of [Child's] natural parents had not been terminated and the foster parents did not have a long-term relationship with the child. See, § 300.20 (b).
- 7) The Court did not give [Child's] guardian *ad litem* educational decision-making authority for [Child].
- 8) [Child's] foster parent attempted to enroll [Child] in the District on 03/23/04. At that time, the foster parent submitted two documents to school staff on GCDSS forms.<sup>4</sup> Collectively, those forms provided identifying information regarding [Child] and brief descriptions of his current circumstances, including, name; the child's placement with the foster parents, who were identified by name and address; the home school district (GCSD); [Child's] social security number; [Child's] Medicaid number; [Child's] place of birth; a statement that legal custody was with GCDSS; the name and phone number of [Child's] caseworker; the last school attended by [Child] and school contact information; a checked box indicating that [Child] was receiving a BOCES curriculum; and a statement that "the child is visually disabled." Underlying supporting documents (such as copies of a birth certificate, court orders, social security card, etc.) did not accompany the GCDSS forms.
- 9) By 03/23/04, the District knew that GCDSS had legal and physical custody of [Child].
- 10) By 03/23/04, the District knew that [Child] was residing in the District and that [Child] was a public school student.
- 11) On or before 03/26/04, District personnel had obtained [Child's] IEP from his sending school.

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<sup>2</sup> See, Section B.1.a.1 at p. 2 of the Agreement (requiring the county social services department to provide written notice of emergency placement to the administrative unit's special education director within five working days of the emergency placement).

<sup>3</sup> During a telephone conversation on 06/07/04, Denise Young, Assistant County Attorney for Garfield County and attorney for GCDSS, stated that the foster care parent did not have the legal authority to enroll [Child] in the District.

<sup>4</sup> Two documents were submitted by the foster care parent. The first document is an untitled GCDSS form dated 03/18/04 and is two pages long. The second document is a GCDSS form entitled "Individual Child Plan/Record of Admission, is dated 03/18/04; it is five pages long and was signed and dated by his intake caseworker.

- 12) On 03/26/04, the District convened a meeting, which was not an IEP team meeting, to discuss [Child's] IEP and placement. Just prior to that meeting, GCDSS had faxed to the District copies of [Child's] birth certificate and social security card. [Child's] special education teacher from the sending school, who was familiar with [Child's] needs and special education program, was invited to attend. [Child's] GCDSS caseworker was not invited to attend. At that meeting, the attendees agreed that [Child's] current IEP should be implemented, but that it was in [Child's] best interest, based on his disability, age and other needs, to remain at the school he had been attending in Garfield County prior to his out-of-home placement. It was also discussed that the District would need to recruit and hire a bilingual classroom aide to work with [Child] on a full time basis in order to comply with his IEP should GCDSS elect to enroll [Child] in the District. The District communicated this information to GCDSS on 03/29/04. The District also notified GCDSS that it would not enroll [Child] without additional documentation/information from GCDSS, i.e., copies of the custody court order; an immunization verification; and the identification and designation of the GCDSS employee who was authorized to make educational decisions for [Child], including registering him for school.
- 13) On 03/30/04, the school principal contacted the Director of GCDSS to elicit GCDSS' help in this matter and also to file a complaint regarding the conduct of GCDSS staff in handling [Child's] out-of-home placement. According to the school principal, the director for GCDSS informed her that GCDSS did not know whether [Child] was staying in his current placement or going back to Garfield County. The Director informed the school principal that a case management meeting was scheduled for 04/02/04 and also that she would send someone to the District to enroll [Child].
- 14) On 03/23/04, the District did not have services/program available for [Child]. However, by 03/31/04, the District was ready and available to implement [Child's] current IEP.
- 15) Even though the District was ready and able to serve [Child] by implementing his current IEP from GCSD by 03/31/04, GCDSS, acting as [Child's] legal custodian, was considering various options. Between 04/02/04 and 04/13/04, GCDSS apparently decided that [Child] should continue to receive his educational services with the GCSD even though he was residing with foster parents in Grand Junction. GCDSS developed a plan to transport [Child] on a daily basis to his prior school. That plan was finalized sometime prior to 04/14/04. Between 04/02/04 and 04/13/04, the attorneys for the District and GCDSS were intermittently in contact with each other. When GCDSS tried to enroll [Child] in the GCSD, GCSD refused to admit [Child] because he was no longer a resident of GCSD.
- 16) On 04/14/04, [Child's] GCDSS caseworker appeared at the District to enroll [Child] and the District immediately admitted [Child].
- 17) At all times relevant to this Complaint, [Child's] special education needs and program, and not his regular education program, were the primary issues of concern to both the District and GCDSS.

- 18) [Child] did not receive any educational services between 03/23/04 and 04/14/04.
- 19) The District did not request CDE to appoint an ESP for [Child] until 04/30/04.
- 20) Between 04/15/04 and the end of the 2003-4 school year, [Child] received the services specified by his IEP while attending the District. Although the number of hours received by [Child] from the District remained unchanged, the nature of the services were more intense in that [Child's] special education teacher/providers worked directly with [Child] 2 hours every day, except on shortened school days. As a result, [Child] achieved a number of his key IEP goals between 04/15/04 and the end of the 2003-04 school year.
- 21) On 06/02/04, the Garfield County District Court transferred legal and physical custody from GCDSS back to [Child's] aunt and uncle. [Child] now resides in Rifle, Garfield County, Colorado.<sup>5</sup>
- 22) During all times relevant to this Complaint, none of [Child's] legal custodians, guardians or his ESP requested that the Complaint be filed and investigated.

**1) Does the Federal Complaints Officer Have Jurisdiction Over This Complaint?**

In defense to the Complaint, the District alleges that the federal complaints officer does not have jurisdiction over the Complaint because (1) Complainant lacks standing to bring the Complaint, and (2) the Complaint fails to allege that the Complainant is aware of any policy, procedure or practice of the District fails to meet federal requirements.

34 C.F.R. §§ 300.660 through 300.662<sup>6</sup> establish the requirements for state complaint procedures. § 300.662 (a) provides in relevant part that “[a]n organization...may file a signed, written complaint...” § 300.662 (b) provides in relevant part that the complaint must include “a statement that the public agency has violated a requirement of Part B of the Act or of this part...and...[t]he facts on which the statement is based.” There is no requirement that the organization or individual filing a complaint must be the parent, legal guardian or lawful educational decision-maker of the child.

The Federal Complaints Officer finds that the Complainant is an organization for purposes of § 300.662 (a). The Federal Complaints Officer further finds that the Complaint sufficiently alleges violations of the IDEA and/or its implementing regulations, i.e., violations of §300.350 (a) (1), i.e., the public agency must provide services in accordance with the child's IEP, and

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<sup>5</sup> During interviews conducted 06/07/04 and 06/07/08, the Federal Complaints Officer was notified by the District, the attorney for GCDSS, the Special Director for Mountain BOCES and the child's uncle that the Garfield County District Court, during a hearing on 06/02/04, transferred legal and physical custody back to the child's aunt and uncle, who live in Rifle, Colorado. As a result, the child is no longer a resident of the District.

<sup>6</sup> Hereafter, the regulations implementing the Individuals with Disabilities Act (IDEA) will be referred to by section number only, e.g., § 300.662.

§ 300.515 (b), i.e., the public agency must ensure that the rights of a child are protected, including assigning an educational surrogate parent to the child. The federal complaints process is available not only for complaints that raise systemic issues but also for individual child complaints. *See, Complaint Resolution Procedures under Part B of the Individuals with Disabilities Education Act (Part B)*, OSEP Memorandum 00-20 (July 17, 2000). For these reasons, the Federal Complaints Officer concludes that she does have jurisdiction over this Complaint.

The Federal Complaints Officer recognizes that there may be some instances, as in this case, when a child's parents, legal custodian and/or educational surrogate parent (ESP) are initially unaware that a federal complaint has been filed. In such a case, the federal complaints officer may proceed with the Complaint if the parents, legal custodian and/or ESP cooperate with the investigation. However, if the parents, legal custodian and/or ESP refuse to cooperate with the investigation and their cooperation is essential for resolving the complaint, the federal complaints officer would have no choice but to dismiss the complaint. Here, GCDSS, who was [Child's] legal custodian at the time that the Complaint was filed, did cooperate with the federal complaints officer. Consequently, sufficient information was obtained by the federal complaints officer from GCDSS to allow her to complete the investigation.

While it is true that many of Complainant's requested remedies are moot as to [Child], the Federal Complaints Officer believes that this case must still resolved in its entirety to prevent recurring future violations involving other similarly situated children with disabilities.

## **2) Did the District Fail to Provide the Child with a Free Appropriate Public Education Within Three Days of Requested Enrollment?**

The Complaint alleges that the District failed to provide [Child] a free appropriate public education (FAPE) within three days of requested enrollment because of its repeated denial of admission of the child to the District.

The District responds that [Child's] admission was delayed, not denied. According to the District, once [Child's] legal custodian (1) supplied information that was reasonably requested by school officials, and (2) his caseworker appeared, in the person, at the school to register [Child], the child was admitted and special education services began immediately thereafter.

In support of its argument, the District relies, in part, on Colo. Rev. Stat. § 22-33-106 (2), which sets forth the grounds upon which a school district may deny admission to a child, including the child's failure to meet age, residency and immunization requirements. The District argues that it has the discretion to establish reasonable procedures to satisfy it that a child is eligible for admission, including requests for supporting documentation such as court orders addressing legal custody and what person(s) have educational decision-making authority for the student. The District also contends that it may reasonably require the person with educational decision-making authority for the student to appear in person to register the child. Finally, the District argues that its obligations under the special education intraschool transfer rules are triggered only by a *valid* request for enrollment.

§ 300.350 (a) (1) requires each public agency to provide special education and related services to a child with a disability in accordance with the child's IEP. Intrastate transfer procedures under the IDEA, as interpreted by the Office of Special Education Programs (OSEP), generally require the receiving school district to immediately implement the child's IEP and placement developed by the sending school district until such time as a new IEP is developed. *Letter to Reynolds*, 213 IDELR 238 (OSEP, June 12, 1989).

The Colorado rules implementing the Exceptional Children's Educational Act, Colo. Rev. Stat. §§ 22-20-101 *et seq.*, (ECEA)<sup>7</sup> specifically address intrastate transfers. ECEA Rule 4.03 (1) affords district special education directors three options for providing special education services to students with disabilities who move into the school district and are known to have been receiving special education services: (1) provide services immediately in accordance with the child's IEP; (2) provide the child with interim services agreed to by the parent(s) while awaiting the IEP; or (3) refer the child for a complete assessment and IEP planning and providing services in accordance with the current IEP or as agreed to by the parent(s). Services must be provided immediately, if the services/program are available; within 3 school days of requested enrollment if the services/program need to be developed; or in accordance with other options agreed to by the parent(s).

Colo. Rev. Stat. § 22-33-106 (2) sets forth the grounds for denial of admission to a public school. However, that statute expressly provides that admission procedures are "[s]ubject to the district's responsibilities" under the ECEA. In other words, § 22-33-106 (2) in no way relieves a district of its obligations under the ECEA.

The Interagency Agreement between CDE and the Department of Human Services provides that, in the event that a disagreement arises between the administrative unit of residence and the county department of social services, "[s]uch disagreement shall not interfere with the provision of appropriate educational and educationally related services prior to the disagreement being settled."<sup>8</sup>

Based on the facts set forth above, the Federal Complaints Officer finds that, in this case, the District's application of its admissions policies and procedures was unreasonable, with the result that the District failed to provide [Child] with the special education services to which he was entitled between 03/31/04 and 04/14/04. The District's authority to regulate the admission of students to its schools is subject to its obligation to provide special education services to a public school child with a disability residing within its boundaries. On 03/23/04, the District unquestionably accepted that GCDSS was the child's legal custodian because it faxed a consent form to GCDSS to obtain GCDSS' consent for the District to obtain the child's educational records from GCSD. By the afternoon of 03/31/04, the District had in its possession copies of the child's birth certificate, social security number and the then current IEP from GCSD. The District has provided no reasonable explanation for why it refused to accept as sufficient the other information contained on GCDSS paperwork or otherwise communicated by GCDSS personnel.

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<sup>7</sup> Hereafter, the rules implementing the ECEA will be referred to by rule number only, e.g., ECEA Rule 4.03.

<sup>8</sup> Section B.3. at page 3 of the Agreement.

The fact that public agencies have unresolved issues between them may not operate as a justification to deprive a child with a disability the special education services to which he or she is entitled. At a minimum, the District should have been providing [Child] with interim and/or temporary special education services agreed to by the child's educational surrogate parent (see discussion, below) until the enrollment and placement issues were resolved. Therefore, the Federal Complaints Officer finds that, between 03/31/04 and 04/14/04, the District violated § 300.350 (a)(1).

## **2. Did the District fail to appoint an educational surrogate parent for [Child]?**

§ 300.515 obligates each public agency to assign an educational surrogate parent (ESP) for a child to ensure that the rights of the child are protected when (a) no parent can be discovered; (b) the public agency, after making reasonable efforts, is unable to discover the whereabouts of a parent, or (3) the child is a ward of the state. Foster parents may not serve as educational surrogate parents unless the rights of the natural parents are terminated, the foster parent has a long-term relationship with the child, and the foster parent has no conflict of interest regarding the child. An agency, such as the GCDSS, is not eligible to make special education decisions for a child that is in its care, also because of conflict of interest concerns (primarily financial concerns). See, §§ 300.20 (a)(2) and 300.515 (c)(2)(i). An ESP may represent the child in all matters relating to identification, evaluation and educational placement, and the provision of FAPE. §300.515.

The Federal Complaints Officer finds that the District failed to make a timely request to CDE to appoint an ESP for the child. [Child's] special education program and placement were the areas of primary concern for both the District and GCDSS. However, GCDSS was not eligible to make decisions about the child's special education program, nor were his foster parents or his guardian *ad litem*. Under these circumstances, the District should have immediately, but no later than 03/26/04, requested CDE to appoint an ESP for [Child] to protect his rights. It is clear from the record that neither the District nor GCDSS was protecting [Child's] special education rights between 03/23/04 and 04/14/04. Had an ESP been timely assigned, it is probable that the child would have received at least some special education services between 03/31/04 and 04/14/04. The Federal Complaints Officer concludes that the District violated §300.515 when it failed to ensure that an ESP was timely appointed for the child.

### **DENIAL OF FAPE**

§§ 300.300 and 300.321 require each State receiving assistance under Part B of the IDEA to ensure that FAPE is available to all children with disabilities, aged 3 through 21. This requirement applies to all public agencies (such as school districts) within each State. See, § 300.321(b)(i)(A).

The Federal Complaints Officer has concluded that the District violated the IDEA when it failed to (1) provide any special education services to [Child] between 04/01/04 and 04/14/04, and (2) ensure that an ESP was timely appointed for [Child]. The Federal Complaints Officer finds that there is insufficient evidence in the record to find that these violations denied [Child] a FAPE.

The record shows that, by the end of the 2004-05 school year, [Child] had achieved some of his key IEP goals and had made progress toward achieving others. [Child's] progress appears to be due to the quality and intensity of the services that the District provided to the child between 04/15/04 and the end of the school year.

### **REMEDY**

- A. Letter of Assurance: Within thirty (30) days of the date of the District's certified receipt of this Decision, the District's special education director shall submit to the Federal Complaints Officer a written statement of assurance. The statement of assurance shall explain how the violations found will be addressed to prevent their recurrence, including, but not limited to, how the District's policies will be revised to ensure that (1) children with disabilities will timely receive all of the special education services to which they are entitled when placed out-of-the-home into the District by other public agencies, and (2) educational surrogate parents will be timely assigned, as appropriate, to such students. The Federal Complaints Officer orders the District to revise such policies no later than the beginning of the 2004-05 school year, and to provide copies of the revised policies to the Federal Complaints Officer immediately upon their revision.
- B. Award of Attorney's Fees: Complainant has requested an award of attorney's fees in this matter. The Federal Complaints Officer does not have the authority to award attorney's fees.

### **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, June 14, 2004.

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Laura L. Freppel  
Federal Complaints Officer