

FEDERAL COMPLAINT NUMBER 98.519

FINDINGS AND RECOMMENDATIONS

I. PRELIMINARY MATTERS

- A. A complaint was received by the Federal Complaints Coordinator, Colorado Department of Education (“CDE”), on May 18, 1998.
- B. The complaint was filed by Mr. [parent] on behalf of his son, [student] against the Woodland Park School District, Mr. Mike McCarthy, Director of Special Education (“the District”) and against the Pikes Peak Board of Cooperative Services, Dr. John Sansone, Director of Special Education (“the BOCS”).
- C. The timeline within which to investigation and resolve this expires on July 17, 1998.
- D. The process for receipt, investigation and resolution of the complaints is established pursuant to the authority of the Individuals With Disabilities Education Act 20 U.S.C. 1401 et.seq., (“the Act”), and its implementing regulations concerning state level complaint procedures, 34 C.F.R. 300.660-300.662, and Colorado State Board of Education Policy No. 1280.0.
- E. The complaint was brought against the District and the BOCS as recipients of federal funds under the Act. It is undisputed that the District and the BOCS are program participants and receive federal funds for the purpose of providing a free appropriate public education (“FAPE”) to eligible students with disabilities under the Act.
- F. The complaint was accepted for investigation based upon a determination that CDE had jurisdiction over the allegation contained in the complaint pertaining to violations of federal law and rules in a federally funded program administered by CDE.
- G. [student] is a student with disabilities eligible for services from the District and BOCS under the Act.
- H. The investigation of the complaint included a review of the documents submitted by the parties; interviews with persons named in those documents or who had information relevant to the complaint; and consideration of relevant case law and federal agency opinion letters.

II. ISSUE

A. STATEMENT OF THE ISSUE:

Whether or not the District and the BOCS have violated the provisions of the Act, by failing to provide [student] a free appropriate public education as a result of refusing to allow him to go on a field trip on 4/24/98.

B. RELEVANT STATUTORY AND REGULATORY CITATIONS

20 U.S.C. 1401 (a)(16), (17), (18), (19) and (20), 1412 (2)(B), (4), (6) and 1414, as amended by 20 U.S.C. 602, 612, and 614

34 C.F.R. 300.2, 300.5, 300.7, 300.8, 300.11, 300.14, 300.16, 300.17, 300.121, 300.130, 300.180, 300.235, 300.300, 300.340, 300.343, 300.346, and 300.350 as amended by statute, and

Fiscal Years 1995-97 State Plan Under part B of the Act

C. FINDINGS

1. At all times relevant to the complaint, the District and BOCS were receiving funds under the Act pursuant to an approved application for funding.
2. The funds were paid to the District and BOCS, in part, based on the assurances contained within their application.
3. One of the assurances made by the District and BOCS is that in accordance with the Act, it provide a FAPE, including special education and related services, to each eligible student with disabilities within its jurisdiction to meet the unique needs of that child.
4. [Student] is a student with disabilities who resided within the District until the last day of school during the 1997-98 school year, at which time he and his family moved back to Montana.
5. The complainant alleges that his son was not allowed to go on a school field trip, unless he (the parent) went along. Allegedly the school wrote a letter stating [student] could not attend the trip, if he came to school. They requested the parent drive his car with his son and meet that at the field trip facility. In addition, [student] was allegedly not allowed to participate with the others during lunch hour and was not allowed on the bus.
6. The District responded to the complaint as follows:

[Student]'s mother had written to the principal requesting that she be allowed to drive [student] to the destinations of the field trip, which the District agreed to.

The day of the trip, the mother arrived at school and requested that [student] be allowed to ride the bus. At that late time, the District was not able to arrange for an aide on the bus, which would have been required. Therefore, the school suggested the mother accompany [student] on the bus, which she agreed to do so.

[Student] rode the bus, participated in the whole trip and ate lunch with the other students. During that period, the mother observed another boy on the bus whose aide was prearranged. There was a lack of understanding as to why that child had an aide, and why [student] did not.

II. CONCLUSIONS

The District and the BOCS did not violate the provisions of the Act by failing to provide [student] a free appropriate public education as a result of refusing to allow him to go on a field trip on 4/24/98. He was permitted to go on the field trip. The non-provision of an aide

at the last minute, when the mother changed her request, would not constitute a violation of the law.

Dated this 15th day of July, 1998

Carol Amon, Federal Complaints Investigator