

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

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**Federal Complaint 99:520**  
(Adams County School District 1)

**Decision**

**FINDINGS**

The Federal Complaints Officer finds that there is insufficient evidence that the school has violated any laws subject to the jurisdiction of the Federal Complaint process.

**DISCUSSION**

The complainant raised troubling allegations against the school. As the Federal Complaints Officer indicated in his letter to the school of July 7, 1999, the gravamen of the complainants' Complaint was that the school, through its policies of screening, identification, referral, evaluation, and placement, had denied some children, at least for a time, a free appropriate public education. In support of her allegations, the complainant cited:

- incorrect dating of IEPs and special education evaluation forms, in order to cover the fact that services had not been timely delivered;
- parents were "systematically misinformed" about their special education evaluation rights until after October 1. The complainant cited specific instances where she believed this had occurred. The complainant also cited statements she said were made by the school's preschool coordinator, in support of this allegation.

In its response, the school indicated that a review of all the 1998-99 pre-school files (approximately 85), found three irregularities, for which the school found unexplainable date discrepancies in two files. In any case, the school stated that decisions about when the IEP services were to begin, as well as whether and when evaluations precedent to those services were to be completed, were joint decisions made between parents and school staff, based upon the needs of the individual child, as supported by the results of multi-disciplinary screening. Regarding specific instances cited by the complainant, in which she alleged the school had committed improprieties resulting in a delay of services, the school provided information indicating the complainant was either misinformed, or uninformed. The school also provided a sworn statement from the preschool coordinator, in which the preschool coordinator contradicted the statements attributed to her by the complainant.

In addition to considering the competing versions of the facts provided by the complainant and the school, the Federal Complaints Officer reviewed the files of two preschool students, who have been students during the time period of this Complaint, and which were identified by the complainant. The Federal Complaints Officer obtained copies of the files from the school. The review of these files did not produce for the Federal Complaints Officer any information

sufficient to confirm the allegations made by the complainant. This was not surprising, since it is not the dates on the documents, but how those dates are arrived at, that are in dispute. The complainant claims intentional wrongdoing by the school, for programming and financial reasons in the school's interests. The school claims collaborative and rational decision making with parents, based upon the needs of the child. In support of these competing views, the complainant and the school offer differing interpretations of circumstances and conversations.

When a complainant makes a charge that the school acted intentionally to deny students a free appropriate public education, the complainant bears a heavy burden of proof. The Federal Complaints Officer cannot find that the school did so when the complainants only evidence is her version of events, which the school denies, and the circumstances are such that the school's explanation is credible, which it is here. Moreover, even though the Federal Complaint process allows any person to file a Complaint, the Federal Complaints Officer is sensitive to a circumstance where, such as here, the Complaint is filed by a non parent, and finding in favor of the complainant would be disruptive of good relations between the parent and the school. Thus, the Federal Complaints Officer has decided not to question individual parents about their recollection of events subject to this Complaint. The work of the Federal Complaints Officer is subject to the Colorado Open Records Act and any parent who believes that their son or daughter was deprived of a free appropriate public education, as described by the complainant, can obtain relevant documents from the Federal Complaints Officer, and from the complainant, and can file their own Complaint. In such a case, the parents, of course, could provide direct information to the Federal Complaints Officer about how the school worked with them to provide special education services for their son or daughter.

## **CONCLUSION**

This Decision is final as dated by the Federal Complaints Officer's signature. Any party who wishes to appeal this decision may do so. A copy of the appeal process is attached to this decision.

Dated today, March \_\_\_\_\_, 2000.

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Charles M. Masner, Esq.  
Federal Complaints Officer