

COLLIER COUNTY PARENTS SEEKING REFORM

NAPLES FL 34114

WWW.COLLIER-ESE-REFORM.COM

June 17, 2007

Ms. Sheila Friedman
Office of Special Education Programs
US Department of Education
550 12th St SW – Room 4169
Washington DC 20202

Re: OCR Class Discrimination Complaint, Docket No:
04-07-1342 FDOE and DOAH – IDEA and Section
504 Due Process Proceedings

Dear Ms. Friedman:

In a July 12, 2007 telephone conference with the investigative attorneys for the Office of Civil Rights (OCR), I was directed to submit a copy of the above-captioned OCR Class Discrimination Complaint against the Florida Department of Education (FDOE), and the Department of Administrative Hearings (DOAH) under their jurisdiction, to your office. It is my understanding that OSEP is responsible for monitoring state and local compliance to federal special education laws, to include Due Process proceedings under IDEA 2004.

While your website confirms OSEP's accountability for the monitoring of compliance to federal education laws, the only directive in the filing of a formal Complaint with your office was a listing of the applicable contact persons and phone numbers per state. Do, therefore, advise if any specific Complaint forms or procedures exist. Otherwise, please accept this correspondence, with the enclosed copy of the OCR Class Discrimination Complaint, to include all exhibits, in support of my OSEP Complaint.

As you may note in reviewing, the Class OCR Discrimination Complaint against FDOE and DOAH under their jurisdiction, alleges both are complicit in the continued and widespread discrimination of Florida Exceptional Student Education (ESE) students. Specifically, while a recipient of federal assistance, granted jurisdiction over IDEA and Section 504 under a Memorandum of Understanding with the Department of Education, FDOE and DOAH are not in compliance with Federal regulations, as evidenced by their willful refusal to process Due Process complaints at the state level, as envisioned under the Federal regulatory guidelines and procedures.

Not only has FDOE and DOAH allowed and/or participated in a continued practice of widespread discrimination against ESE Students, in violation of their civil and legal rights under the applicable education laws, but they have allowed the Public School Districts within their jurisdiction to utilize coercion, intimidation, and delay tactics to interfere with, delay, and deny ESE Student's rights to Due Process on the state level, under both the IDEA and Section 504, in attempts to pressure Parent Advocates to abandon all Due Process and related legal rights. This is the focus of the OCR Complaint.

Given their persistence in utilizing these tactics in retaliation for the filing of state Due Process complaints, Parent Advocates have been forced to withdraw their students from the public

school system, relocating outside the State of Florida for services, provide home schooling, and/or place their children in alternative private schools. Those that seek protection under IDEA, Section 504, and ADA have been forced, at considerable personal expense, to hire legal counsel to protect ESE Student's rights. Rather than insure that those student's rights to Due Process and respected and upheld, FDOE and DOAH instead allow and approve delays and denials of the ESE Student's rights, to force Parent Advocates to abandon all rights. Those tactics include the denial of educational and related services to the child during Due Process proceedings, continuous delays in Due Process proceedings, while simultaneously threatening Parent Advocates with the violation of Compulsory Education laws.

Notably, FDOE and the assigned Administrative Law Judges (ALJs) under DOAH, In IDEA Due Process Hearing Requests, are refusing to simultaneously hear educational, medical, and/or legal issues relative to the student's rights under ADA and Section 504. In doing so, they are effectively "delaying and denying these qualified disabled person's legal rights under ADA and Section 504, in violation of the disabled student's civil rights, for the duration of the IDEA Due Process Proceedings." This is a systematic course of action to delay and deny any consideration to these critical civil rights, while forcing upon the qualified disabled person a clear and costly duplication of time and monies, in having to separately pursue these rights on a State Appeal or Federal level, only after exhausting the Administrative Pre-conditions of those filings under IDEA on the State level.

In summary, I feel the violations herein outlined and documented on behalf of CCSB are extremely egregious in nature, and FDOE and DOAH must be held accountable for allowing and/or supporting them. As responses, in the form of OCR Contact and Consent forms, to our website (www.collier-ese-reform.com) have proven, these problems are indicative of the state-wide system. I, therefore, request this OSEP Complaint be considered and processed on behalf of all ESE students and their parents residing in Florida, and that OSEP initiate a state-wide investigation, starting in Collier County.

Should you require anything further, upon review, please do advise.

Respectfully Submitted,

Patty Caldwell Portenier, Representative
OCR Class Discrimination Complaint