

## FEDERAL COMPLAINT NUMBER 98.507

### FINDINGS AND RECOMMENDATIONS

#### I. PRELIMINARY MATTERS

- A. A complaint was received by the Federal Complaints Coordinator, Colorado Department of Education (“CDE”), on February 11, 1998.
- B. The complaint was filed by Ms. [parent] on behalf of her son, [student] against Jefferson County Schools, Dr. Jane Hammond, Superintendent, and Ms. Kay Cessna, Director of special Education (“the District”).
- C. The timeline within which to investigation and resolve this complaint expires on April 13, 1998.
- D. The process for receipt, investigation and resolution of the complaint 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 as a recipient of federal funds under the Act. It is undisputed that the District is a program participant and receives 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 a violation of federal law and rules in a federally funded program administered by CDE.
- G. [student] is a student with disabilities residing within the District’s attendance boundaries and is eligible for special education services from the District.
- 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 complaints; and consideration of relevant case law and federal agency opinion letters.

#### II. ISSUE

##### A. STATEMENT OF THE ISSUE:

Whether or not the District has violated the provisions of the Act, by failing to provide curb to curb transportation to [student].

##### B. RELEVANT STATUTORY AND REGULATORY CITATIONS

20 U.S.C. 1401 (a)(16), (17), (18) (19) and (20), and 1414,

34 C.F.R. 300.2, 300.7, 300.8, 300.11, 300.14, 300.16, 300.17, 300.121, 300.130, 300.180, 300.235, 300.300, 300.340, 300.346, 300.350, and 300.533 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 was receiving funds under the Act pursuant to an approved application for funding.
2. The funds were paid to the District, in part, based on the assurances contained within the application.
3. One of the assurances made by the district is that, in accordance with the Act, it provide a free appropriate public education to each student with a disability according to the individualized education program ("IEP").
4. [student] is a student with multiple disabilities according to an IEP dated 11/18/97. That IEP states that [student] is to be provided with transportation curb to curb daily, am and pm.
5. The complainant alleges that the District refuses to provide IEP stipulated curb to curb transportation due to construction of homes in the area, that transportation could be reinstated if there were no construction impediments, and that construction could continue another 4-6 months. Rather than curb to curb service during this time, the complainant alleges that the District is requiring her to walk her son two blocks to a very busy 4 way intersection.
6. The District, in its response to the complaint, stated that problems did occur beginning the third week of January, when the bus was not able to get into the cul-de-sac where [student] lives. A temporary solution suggested by the District was to pick up [student] at the end of the cul-de-sac; however this did not work out due to miscommunication and safety concerns. After much discussion, the construction issue was resolved and curb to curb transportation was begun on February 10, 1998, and has continued to date.
7. Several attempts to contact the complainant by telephone to confirm the above, have been unsuccessful, however this complaints investigator is confident this has been resolved, based on information from the District's Director of Transportation.

### III. CONCLUSION

The District did technically violate the provisions of the Act by failing to provide curb to curb transportation for a brief period of time due to construction vehicles on the cul-de-sac where [student] lives. It did immediately initiate a temporary transportation plan until the issue could be corrected, then resumed the curb to curb transportation within a three week period. Such technical violation would not constitute a failure to provide a free appropriate public education to [student]; and, in fact, the District is to be commended for its diligence in the resolution of this matter.

IV. REMEDIAL ACTION

None.

Dated this \_\_\_\_\_ day of April, 1998

---

Carol Amon, Federal Complaints Investigator