



SANDY GARRETT
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF OKLAHOMA

July 15, 2010

Judy Gregorian
United States Department of Education
Office of Special Education Programs
Potomac Center Plaza Mail Stop 2600
550 12th Street SW, Room 4129
Washington DC, 20202

Dear Ms. Gregorian:

I am writing on behalf of the Oklahoma State Department of Education (OSDE). I serve as the Department's General Counsel.

On October 4, 2005, when the OSDE received and began investigating a complaint from Kimberly Voss against the Jenks School District, attorneys for both parties informed us that there had been prior litigation concerning Ashley Voss and that a Settlement Agreement had been reached by the parties, and accepted by the federal court. The school district argued that due to the terms of the Settlement Agreement, Ms. Voss was precluded from bringing an IDEA Complaint covering matters occurring before June 3, 2005, because any IDEA issues allegedly occurring during that time frame had been resolved in the Settlement Agreement. Ms. Voss disagreed and argued that the issues referenced in her complaint that occurred during that timeframe were not addressed in the Settlement Agreement and those issues should be investigated by the OSDE.

This factual situation was very unique; in the 26 years I have served as General Counsel for the OSDE, this situation has not occurred. The Special Education Services (SES) Division requested an opinion from the Legal Services Section of the Department regarding how to proceed with the Voss complaint under these circumstances. Upon review of all the pertinent facts including the Settlement Agreement, and the contradicting opinions as to the applicability of Settlement Agreement, a recommendation was made by my office that the parties consult the Court regarding the Settlement Agreement's relevance.

The OSDE did not intend to cause an undue delay or burden to the parent. It was my opinion as General Counsel and an officer of the court, that based on the circumstances, it was prudent to have the court determine the applicability of the Settlement Agreement.

OKLAHOMA STATE DEPARTMENT OF EDUCATION
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Having been advised that this was not an appropriate position for OSDE to take, we assure the United States Department of Education that OSDE will not take this approach should this situation occur in the future.

Additionally, when Ms. Voss' claim that she was denied an opportunity to provide additional evidence, Jenks Public Schools was permitted to do so, is incorrect. On January 13, 2008, Ms. Voss requested that the OSDE-SES review, make corrections, and reconsider the conclusions of the December 29, 2008, letter of complaint findings. The OSDE-SES followed complaint procedures, and did not allow any an additional evidence to be submitted by either party. The OSDE-SES was unaware of the information provided by Jenks Public School in federal court. Please be advised, that the OSDE-SES complaint procedures were amended in August 2009, after the required public comment period, and the right to request a review, or reconsideration of a complaint was deleted from the procedures.

Sincerely,

A handwritten signature in black ink that reads "Kay Harley". The signature is written in a cursive style with a large, stylized "K" and "H".

Kay Harley
General Counsel
Oklahoma State Department of Education