



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

AUG 15 2007

Richard E. Connelly
Director
Bureau of Special Education Appeals
Massachusetts Department of Education
350 Main Street
Malden, MA 02148-5023

Dear Mr. Connelly:

This letter is in response to your letter of April 2, 2007 in which you ask the following question:

Whether a state agency is obligated to provide at no charge a copy of a written verbatim record (transcript) from a due process hearing when the hearing is concluded, a written decision has been issued, and the applicable appeal period has expired?

Under 34 CFR §300.512(a)(4) and (5), any party to a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534, has the right to...obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and obtain written, or, at the option of the parents, electronic findings of fact and decisions.

While the Office of Special Education Programs (OSEP) understands your concerns regarding the costs of a written transcript, IDEA and its implementing regulations for Part B do not limit a parent's right to receive a free written, or at the option of the parents, electronic, verbatim record of the hearing to the period during which an appeal may be filed. The statute and regulations do not establish any timeline within which a party must make such a request. Therefore, a State agency is obligated to provide, at no charge, a copy of the written, verbatim record (transcript) from a due process hearing, even though the applicable appeal period has expired. Such a transcript could be used for purposes other than an appeal of the decision in question, including using it for information by the parent or IEP Team, or as evidence or information in a subsequent State complaint or due process complaint.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We hope this provides you the information you need. If you have further questions, please do not hesitate to contact Ken Kienas, of my staff, at 202-245-7621.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia J. Guard".

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: Ms. Marcia Mittnacht