



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

SEP 11 2007

Roberto Maldonado, Esq.
Department of Education
Special Education
P.O. Box 190759
San Juan, Puerto Rico 00919-0759

Dear Mr. Maldonado:

This letter is in response to your July 12, 2007 inquiry to the U.S. Department of Education's Information Resource Center through our 1-800-USA-LEARN telephone line. Your questions were forwarded to the Office of Special Education Programs (OSEP) for response.

Your inquiry asks for clarification of 34 CFR §300.512(a)(4), which states:

Any party to a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534, or an appeal conducted pursuant to §300.514, has the right to--...(4) obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing;....

Specifically, you ask: (1) whether this provision means that the party to a hearing has a right to both a written and electronic record; (2) if the parents ask for and receive the electronic record, may the parents make a second request for the written record; and (3) whether the written record may be produced by any person designated by the educational agency.

As stated above, 34 CFR §300.512(a)(4) specifies that any party to a hearing has the right to obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing (emphasis added). OSEP interprets this provision to mean that any party to a hearing specified in 34 CFR §300.512(a) may obtain a written verbatim record of the hearing. Further, the parents have the right to obtain either a written verbatim record of the hearing, or an electronic verbatim record of the hearing, not both. Therefore, once the parents have requested a verbatim record, either written or electronic, the educational agency is not required to provide another verbatim record. However, the educational agency may choose to provide the second record, either at no cost to the parents or may elect to provide the second record for a reasonable fee.

With respect to your last question, the agency responsible for conducting the hearing – either the State educational agency (SEA) or the public agency directly responsible for the education of the child, as determined under State law – is responsible for producing accurate verbatim records.

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 information is helpful to you. If you have further questions about this matter, please contact Dr. Deborah Morrow of my staff, at 202-245-7456.

Sincerely,

A handwritten signature in black ink that reads "Patricia J. Guard". The signature is written in a cursive style with a large initial "P".

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: Ms. Miriam Merced Cruz