

TASK FORCE TO REVIEW THE COMPLAINT SYSTEM FOR PERSONS WITH DISABILITIES

Abstract of the Executive Summary Report for Common Education

Why Form a Task Force?

HB 2356 created the Task Force to Review the Complaint System for Persons with Disabilities. The purpose of the Task Force was to conduct a thorough review of the procedures and processes for reporting and resolving complaints regarding access to programs and services by persons with disabilities and their families within various governmental entities in Oklahoma and to recommend any changes necessary to improve the delivery system based on the Task Force's findings.

At the request of Oklahoma's Legislature, the Task Force goals were to:

- Identify the gaps and barriers to accessing services for persons with disabilities in this state;
- Examine and assess current grievance procedures and hearing processes utilized by governmental entities to resolve complaints filed by, or on behalf of, persons with disabilities;
- Review the number, types, and nature of such complaints;
- Evaluate the response time of governmental entities to resolve complaints;
- Evaluate the time period for resolution of complaints or grievances;
- Assess client/consumer satisfaction with regard to current grievance procedures and hearing processes; and
- Recommend improvements, if deemed necessary, to the complaint system procedures utilized by governmental entities, concerning persons with disabilities, including, but not limited to:
 - Modification of existing policies,
 - Rules, and
 - Guidelines and procedures governing the complaint system.

A multi-method study of Education in Oklahoma revealed the following barriers:

- **Lack of coordination** between agencies serving families of students with disabilities;
- **Lack of knowledge and training** in professionals who identify and serve students with disabilities;
 - Lack of information on various disabilities among professionals who serve students with disabilities
 - Lack of trained personnel to educate students in special education
 - Lack of pre-service and in-service training on IDEA and its implementation
- **Lack of monitoring** to assure local compliance with IDEA
- **Lack of investigation and resolution** of complaints
- **Lack of legal systems** to represent families/students being served under IDEA

Common Education Subcommittee Findings

- The Oklahoma Child Count reveals an estimated 88,000 children in 543 school districts require special education.
- The Individuals with Disabilities Education Act (IDEA) was passed in 1975 to end the chronic exclusion and miseducation of students with exceptional needs. IDEA requires that these students receive a free appropriate public education (FAPE) for children ages 0-21; in the least restrictive setting (LRE); with supplemental services (i.e., speech therapy, assistive technology, classroom aide) to complete their education; and an assessment to determine the student's needs.
- Congress' '75 promise to pay 40% of the incremental costs of educating students with disabilities pursuant to federal mandates, has not risen higher than 12%. Mandates, elaborated by Congress, the U.S. Education Department, and the federal courts, have steadily raised the financial obligation of states and school districts.
- Notwithstanding, federal laws and state policies supporting the right to a FAPE, complaints regarding special education in Oklahoma are on the increase.
- Coordinated, systemic efforts need to focus on educational outcomes for students to ensure that the important principle of 'no child is left behind' applies to students with special needs in Oklahoma.

Section I: Lack of Coordination

It is important that the OSDE coordinate with other Oklahoma human service agencies and the local school districts to ensure that students with disabilities are receiving the appropriate services. It is equally important that the child's parent(s) be included in the coordination process.

Recommendation:

Create an independent, oversight panel charged with coordination of education procedures and implementation of the recommendations made by the Education Subcommittee and contained in the Final Report of the Task Force to Review the Complaint System for Persons with Disabilities.

Section II: Lack of Knowledge and Training

A. Lack of Information on Various Disabilities among Professionals Who Serve Students with Disabilities

It is imperative that professionals be better educated in the proper identification of children with disabilities in order that the children receive the appropriate services and accommodations needed to educate them.

B. Lack of Trained Personnel to Educate Students in Special Education

It is imperative that Oklahoma recruit and train high quality individuals to become educational professionals.

C. Lack of Pre-Service and In-Service Training on IDEA and Its Implementation

It is imperative that all interested parties effectively partner to make IDEA successful.

Recommendation(s):

1. Mandatory university classes covering IDEA for students working toward a teacher's certificate.
2. Mandatory training in identifying students with disabilities for all teachers currently employed in Oklahoma school districts.
3. Mandatory continuing education classes for all teachers currently certified. These classes should be on a university level, and teachers should be given credit hours.
 - a) Continuing education must focus on best practice procedures and updated legal requirements.
 - b) Teachers must develop a proficiency in understanding education evaluation tools. They must be able to apply evaluation outcome data in developing an IEP.
 - c) Teachers need to develop a proficiency in special education laws and how to apply them.
 - d) Teachers must develop a proficiency in teaching methods specific to the identified disability with an emphasis on IEP development and behavior analysis.
 - e) Teachers must be able to discern whether the behavior problem is due to:
 - i. A student's disability,
 - ii. A student not yet identified or diagnosed with a disability, or
 - iii. Misbehavior being reinforced by incorrect teaching methods to address a particular disability.
4. The Commission on Teacher Preparation and the State Department of Education are required to develop one set of standards to hold teachers accountable for mandatory training requirements and teaching proficiencies.
5. Information concerning identifying students with disabilities should be sent to each student's home at the beginning of the year. This information should include signs a parent or guardian should be watching for, to include, but not be limited to:
 - a) short attention span,
 - b) not reading on grade level, and
 - c) not performing on grade level.
6. Develop a more comprehensive Child Find System that provides ongoing public awareness and referral for identifying, location, and evaluating children of all cultures.
7. Provide information and advocacy resources to families who speak a language other than English.
8. Develop resources to ensure that interpreter services are available to non-English speaking families.

Section III: Lack of Monitoring

A strong State monitoring process is crucial to improving educational results for children with disabilities. If state monitoring is lax, noncompliant practices emerge at the local level.

1. The OSDE conducted **526** special education on-site compliance monitoring reviews during the course of the four school years from 1993 to 1997
2. The OSDE conducted **39** special education on-site compliance monitoring reviews during the course of the four school years from 1997 to 2001.
3. As of May 17, 2002, the OSDE had finalized **one** special education on-site compliance monitoring review, for the 2001-2002 school year.

Recommendation(s):

1. Adopt recommendations of the State Auditors Office: Until the OSDE proposed monitoring procedures are fully implemented, the OSDE must conduct comprehensive review monitorings in approximately 25% of the schools each year.
2. Procedures must be adopted to closely monitor the effectiveness and accuracy of the School Self-Assessments.
 - a) The OSDE must ensure that the data submitted by the Schools are valid, and
 - b) The “Annual School Self-Assessments” must be disseminated to the public in the same fashion as the Annual School Report Cards.
3. Monitoring procedures must be adopted that ensure relevant measures of substantive compliance, as well as paperwork compliance.
 - a) Program effectiveness must be measured and monitored by the OSDE, and
 - b) The OSDE must adopt objective assessments that measure the effectiveness of educational programs for children with disabilities.
4. Written guidelines detailing the special education monitoring process must be developed and adopted.
 - a) Guidelines utilized in conducting focused and comprehensive monitoring compliance reviews must be readily available to the public.
 - b) Independent oversight, incorporating parents/child advocates, must be utilized to ensure monitoring procedures are being properly implemented, and
 - c) Independent oversight, incorporating parent/child advocates, must be utilized to ensure that monitoring procedures are effective in identifying and eliminating noncompliant practices.
5. A procedure for tracking performance of the monitoring system must be adopted.
 - a) The implementation of the OSDE destruction of records procedures must be reviewed to ensure that important monitoring data is not being destroyed prematurely.
 - b) The adopted monitoring process must have the ability to readily identify and correct systemic issues of noncompliance.
6. An IDEA (Part B) Special Education Advisory Panel to provide guidance with respect to Special Education and related services for children with disabilities must be effectively maintained by the State at all times.
 - a) The panel must meet at least quarterly,
 - b) The panel must be independent from the OSDE,
 - c) The panel must operate under the direction of officers elected by members of the panel, and
 - d) The panel must comply with the requirements of the Oklahoma Open Meetings Act.
7. The membership of the Advisory Panel must meet the requirements of the “special” membership rule at all times.
 - a) The OSDE must review the membership of the IDEA Special Education Advisory Panel to ensure the membership meets the mandatory rule requiring the majority to be individuals with disabilities or parents of children with disabilities, and
 - b) Rules should be adopted to prohibit members of this panel with a past or present affiliation (such as employment with an agency receiving funding under the IDEA) from being considered a part of the individuals with disabilities, or parents of children with disabilities, majority.

Section IV: Lack of Investigation and Resolution

It is imperative that effective state Complaint procedures be in place to provide parents with an important means of ensuring that the educational needs of their children are met and provide the OSDE with a powerful tool to identify and correct noncompliance.

Recommendation(s):

1. Written procedures specifying and requiring the wide dissemination of the special education complaint procedures must be adopted.
 - a) The OSDE must take prompt action to ensure that the OSDE draft, April 1998, *Parents Rights in Special Education Notice of Procedural Safeguards*, a version which does not contain information regarding written complaint procedures, is no longer being distributed to parents by the schools, and
 - b). Procedures must be adopted to ensure OSDE staff is providing reliable and truthful information to parents regarding the special education complaint system.
2. Complaint procedures must be adopted to ensure the reporting and proper filing of special education complaints.
 - a) Guidelines must be adopted to prevent and hinder retaliation against those persons who file complaints, and/or bring attention to special education issues of noncompliance to the OSDE.
 - b) Signed, written complaints must not be “dropped” without the signed, written request/permission of the complainant,
 - c) Complaints alleging denial of a free appropriate public education, even if the complaint involves physical abuse or disabilities harassment issues, must be investigated,
 - d) An independent outside agency must be utilized to resolve complaints made against the OSDE and OSDE personnel.
3. Written guidelines detailing the special education complaint system process must be developed and adopted.
 - a) Procedures and checklists must be adopted to ensure the proper and thorough investigations of special education complaints,
 - b) Procedures must be adopted to fully ensure that individuals relevant to the complaint are interviewed,
 - c) State standards for special parent/child advocates must be readily available to the public,
 - d) Independent oversight incorporating parent/child advocates must be utilized to ensure the complaint procedures are being properly implemented, and
 - e) Independent oversight incorporating parent/child advocates must be utilized to ensure that the complaint procedures are effective in identifying and eliminating noncompliant practices.
4. Written guidelines must be adopted that fully ensure proper remedies when there is a finding of noncompliance.
 - a) When there is a finding of failure to provide appropriate services to a child, the remediation for the denial of those services appropriate to the needs of that child must be addressed, and
 - b) The OSDE must adopt procedures to send out a notice informing other schools of their findings and letting them know not to commit the same violation.
5. A procedure for tracking performance of the complaint system must be adopted.

- a) The OSDE must develop written procedures to be sure all complaints received, whether made by telephone or in writing, are accurately recorded in its complaint logs,
 - b) The adopted system must have the ability to readily identify specific issues of noncompliance.
6. The Oklahoma State Board of Education must take proactive steps to ensure the timely and proper adoption of Special Education Policies and Procedures.

Section V: Lack of Legal Systems

IDEA bestows rights to children with disabilities that ensure a free appropriate public education and the procedural safeguards to ensure those rights. Oklahoma accepts federal funds under IDEA and therefore must comply with both the substantive and procedural rights mandated under IDEA. Pursuant to the requirements of the IDEA, the OSDE is responsible for the administration of the due process hearing system. It is important to note however, that IDEA does not prohibit a state from adopting laws, rules, and regulations which bestow greater rights and remedies than those provided under IDEA.

Recommendation(s):

1. Steps should be taken to ensure that parents are fully informed concerning their rights under IDEA.
 - a) Parent networks for the sharing of information and support should be developed.
 - b) School districts should disseminate information annually regarding parents' rights.
2. The OSDE's current due process system should be modified in order to ensure a fair, expedient, and inexpensive adjudication of an IDEA dispute.
 - a) Hearing and appeal officers should possess law degrees.
 - b) Parent/Child advocates should be included in the process of recruiting and selecting hearing and appeal officers.
 - c) IDEA training programs provided to hearing officers should be open to parents, parent advocates, and interested attorneys.
 - d) A random/rotational method of appointment should be used to assign hearing and appeal officers to particular cases.
 - e) Adequate numbers of qualified hearing and appeal officers must be maintained.
 - f) IDEA time lines which ensure expedient proceedings must be enforced.
 - g) The per diem method for paying hearing officers should be changed.
 - h) Rules relating to pretrial and trial procedures should be adopted in order to ensure uniformity in proceedings.
 - i) Information provided to the parties regarding the hearing and appeal officers should be expanded.
 - j) Rules for oversight and, if necessary, removal of a hearing officer should be adopted.
 - k) A procedure for tracking performance of the due process system should be adopted.
3. Legal services should be made available to all parents.
4. The OSDE should contract with a law school or university to administer the due process hearing system.