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Ex Officio

October 11, 2000

Mr. Alan E. Duncan
840 Ardmoor Drive
Bloomfield Hills, Michigan 48301

Dear Mr. Duncan:

In a memorandum dated September 1, 2000, you raised some concerns regarding your son's current status with respect to the state hearing officer's decision. In a letter dated September 12, 2000, I indicated that the appropriate procedure for you to follow would be to petition the state hearing officer to review your concerns. In closing, I also indicated that should you disagree with the state hearing officer's decision, you could petition a court of competent jurisdiction.

In a second memorandum to me dated October 5, 2000, you informed me that you had discussed your concerns with the state hearing officer. You also attached a copy of the state hearing officer's written response to you dated September 14, 2000, in which the state hearing officer indicated that his decision was final. He apprised you of your right to proceed to a court of competent jurisdiction, pursuant to Rule 340.1725(3) of the Michigan Revised Administrative Rules for Special Education.

Rule 340.1725(3) states:

The decision made by the reviewing official is final, unless a party brings a civil action pursuant to the provisions of R 340.1725a.

Rule 340.1725a states:

Any party aggrieved by the findings and decision made in a hearing and who does not have the right to appeal under R 340.1725, and any party aggrieved by the decision of a reviewing officer under R 340.1725, shall have the right to bring a civil action with respect to the issue presented pursuant to this rule without regard to the amount in controversy. A civil action may be brought in any court of competent jurisdiction.

Section 300.512(a) of the Final Regulations Implementing the Individuals With Disabilities Education Act (IDEA) states:

General. Any party aggrieved by the findings and decision made under §§300.507 or 300.520-300.528 who does not have the right to an appeal under §300.510(b), and any party aggrieved by the findings and decision under §300.510(b), has the right to bring a civil action with respect to the complaint presented pursuant to §300.507. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

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As is clear from the State and Federal regulations above, your only recourse is to take the matter to a court of competent jurisdiction.

Sincerely,

A handwritten signature in black ink that reads "David J. Brock". The signature is written in a cursive style with a large, prominent "D" and "B".

David J. Brock, Supervisor
Policy, Planning, and Compliance Program
Office of Special Education and
Early Intervention Services

DJB/msl

cc: Dr. William Sosnowsky
Mr. James H. Rowell
Mr. J. Hoeffler