

**DEPARTMENT OF EDUCATION****List of Correspondence—Office of Special Education and Rehabilitative Services**

**AGENCY:** Department of Education.

**ACTION:** List of Correspondence from January 4, 1999 through March 31, 1999.

**SUMMARY:** The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

**FOR FURTHER INFORMATION CONTACT:**

JoLeta Reynolds or Rhonda Weiss. Telephone: (202) 205-5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205-5465 or the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205-8113.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued between January 4, 1999 and March 31, 1999.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

**Part A—General Provisions***Section 602—Definitions*

Topic Addressed: Other Health Impairment

- Letter dated February 12, 1999 to individuals (personally identifiable information redacted), regarding possible eligibility of children with multiple chemical sensitivity disorder for services under Part B of IDEA under

the “other health impairment” category and the responsibility of the individualized education program team to determine what accommodations would be appropriate for eligible children.

Topic Addressed: Special Education and Rated Services

- Letter dated March 11, 1999 to Massachusetts Speech-Language-Hearing Association President Robert Gilmore and School Affairs Committee Member Karen L. Grossman, regarding a State’s ability to consider speech-language pathology services as either special education or a related service and to consider any related service as special education if doing so would be consistent with applicable State education standards and the State’s discretionary authority in establishing those standards.

- Letter dated March 23, 1999 to Vice President of National Board for Professional Teaching Standards Sally Mernissi, regarding the importance of physical education in educating students with disabilities and comments on draft standards for physical education teachers.

*Section 607—Requirements for Prescribing Regulations*

Topic Addressed: Applicability of Regulations

- Letter dated March 30, 1999 to U.S. Congressman Jerry Moran, regarding regulations that were applicable pending the March 12, 1999 publication of final regulations implementing the IDEA Amendments of 1997.

**Part B—Assistance for Education of All Children With Disabilities***Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations*

Topic Addressed: Availability of Subgrant Funds to Local Educational Agencies

- Letter dated March 30, 1999 to Mr. David Tokofsky, Los Angeles Board of Education regarding States’ requirement to reserve certain excess funds for LEA subgrants under section 611(f)(4)(A) of the IDEA Amendments of 1997 and responding to inquiries regarding audit process under Single Audit Act of 1984, as amended in 1986.

*Section 612—State Eligibility*

Topic Addressed: Free Appropriate Public Education

- Letter dated January 13, 1999 to U.S. Senator Dianne Feinstein, regarding State and local school district

responsibility to ensure the provision of a free appropriate public education and increased opportunities for parent participation in a child’s evaluation, eligibility, and educational placement, but clarifying that IDEA does not automatically require inter-district transfers requested by parents.

Topic Addressed: Confidentiality

- Letter dated February 26, 1999 to individual (personally identifiable information redacted), from Family Policy Compliance Office Director LeRoy S Rooker, regarding the Family Educational Rights and Privacy Act (FERPA) and FERPA’s applicability to Part B of IDEA and to education records of students with disabilities, and clarifying that there is no requirement in FERPA that a State establish a procedure for the destruction of records or inform parents of the State’s intention to destroy such records when no longer needed.

Topic Addressed: Payment for Education of Children Enrolled in Private Schools Without Consent of or Referral by the Public Agency

- Letter dated March 19, 1999 to Educational Consultant and Advocate Susan Luger, regarding the absence of any provision in Part B of IDEA that makes a child’s prior receipt of special education and related services from a public agency a prerequisite to a parent’s obtaining tuition reimbursement from a hearing officer or court for the cost of a unilateral private school placement.

Topic Addressed: State Educational Agency General Supervisory Responsibility

- Letter dated March 11, 1999 to individual (personally identifiable information redacted), regarding required procedures for handling complaints that are also the subject of pending due process hearings under Part B of IDEA.

Topic Addressed: Maintenance of Effort

- Letter dated January 7, 1999 to Alaska Department of Education Commissioner Shirley J. Holloway, regarding State and local maintenance of effort requirements in the IDEA Amendments of 1997 and how those requirements are applied in light of criteria in Alaska’s funding formula.

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements*

Topic Addressed: Individualized Education Programs

- Letter dated February 24, 1999 to U.S. House of Representatives Education and Work Force Committee Chairman William Goodling, regarding provisions in the IDEA Amendments of 1997 that decrease unnecessary paperwork requirements and clarifying that some of the paperwork requirements resulting from the Act's individualized education program requirements apply only to specific groups of children.

*Section 615—Procedural Safeguards*

Topic Addressed: Finality of Due Process Hearing Decisions

- Letter dated February 26, 1999 to Chief Counsel David Anderson, Texas Education Agency, regarding Texas' responsibility to implement Texas law in a manner that ensures the timely implementation of due process hearing decisions.

Topic Addressed: Prior Written Notice

- Letter dated March 4, 1999 to individual (personally identifiable information redacted), regarding the State and local educational agencies' responsibility to locate, identify, and evaluate children suspected of having disabilities under Part B of IDEA and to provide parents with prior written notice regarding the agency's refusal to

evaluate the child to determine eligibility for services under Part B of IDEA or to change the child's educational program.

Topic Addressed: Student Discipline

- Letter dated February 5, 1999 to Prince William County, Virginia School Board Chairman At-Large Lucy S. Beauchamp, regarding options available to school authorities in disciplining students with disabilities who bring weapons to school.

Durbin, regarding options available to school authorities in disciplining a student with a disability in possession of a weapon at school when school authorities and parents cannot reach agreement on an appropriate placement for the student.

- Letter dated March 30, 1999 to U.S. Senator Ted Stevens, regarding provisions in the IDEA Amendments of 1997 authorizing school personnel and hearing officers to place certain disabled students in an appropriate interim alternative educational setting for up to 45 days and the availability of Part B of IDEA funds to assist school districts in financing the costs of such placements.

**Part C—Infants and Toddlers With Disabilities**

*Sections 631–641*

Topic Addressed: Availability of Federal Impact Aid

- Memorandum dated February 2, 1999 to Part C Lead Agency Directors and State Representatives for Impact Aid, from former director of the Office

of Special Education Programs Thomas Hehir and Impact Aid Program Director Catherine Schagh, regarding the availability of Federal Impact Aid for local educational agencies serving federally-connected infants and toddlers with disabilities (specifically including dependents of uniformed service members and those living on Indian lands) who are eligible for services under Part C of IDEA and the criteria for obtaining and using such funds.

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Dated: February 17, 2000.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

**Curtis L. Richards,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

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