

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

AGENCY: Department of Education.

ACTION: List of correspondence from July 1, 2001 through September 30, 2001.

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: Melisande Lee or JoLeta Reynolds. Telephone: (202) 205-5507.

If you use a telecommunications device for the deaf (TDD) you may call (202) 205-5637 or the Federal Information Relay Service (FIRS) at 1-800-877-8339.

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SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued from July 1, 2001 through September 30, 2001.

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 607—Requirements for Prescribing Regulations*

Topic Addressed: Applicability of Regulations

- OSEP memorandum 01-18 dated September 12, 2001 to State Directors of Special Education, regarding the availability of electronic copies of letters

of clarification and selected OSEP memoranda on the OSEP web page at: <http://www.ed.gov/offices/OSERS/OSEP/>

Part B—Assistance for Education of all Children With Disabilities

Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations.

Topic Addressed: Allocation of Grants

- Letter dated July 6, 2001 to Federated States of Micronesia Secretary of Health, Education and Social Affairs Dr. Eliuel K. Pretrick, regarding funding for the Special Education Program for Pacific Island Entities grant under Part B of IDEA.

Topic Addressed: Distribution of Funds Provided to the Secretary of the Interior

- Letter dated July 23, 2001 to Arizona Special Education Coordinator David Dickman, regarding the use of funds and formula allocations to provide special education and related services to Indian children with disabilities on reservations.

Topic Addressed: Use of Funds

- Letter dated September 19, 2001 to Alabama State Superintendent of Education Dr. Ed Richardson, regarding the use of Part B funds to pay for litigation costs incurred as a result of compliance with specific provisions of the Part B of IDEA award.

Topic Addressed: Use of Funds and Allocation of Grants

- Letter dated July 24, 2001 to U.S. Representative Patsy Mink, regarding the purpose and use of IDEA funding, including funding of the IDEA at 40 percent of the average per pupil expenditures in public elementary and secondary schools in the United States, the allocation and distribution of IDEA grants to States, and payments for children with disabilities under the Impact Aid program.

Section 612—State Eligibility.

Topic Addressed: Condition of Assistance

- Letter dated July 2, 2001 to individual, (personally identifiable information redacted), regarding (1) the Office of Special Education's obligation to ensure compliance with the IDEA and its implementing regulations, including its monitoring of Florida's implementation and (2) the discretion a State has in choosing whether the State educational agency or the public agency directly responsible for the education of the child conducts due process hearings.

Topic Addressed: Free Appropriate Public Education

- Letter dated July 5, 2001 to Seattle Children's Home President R. David Cousineau and Manager David L. Halbett, regarding the child find, educational, and financial responsibilities under the IDEA for children with disabilities placed in psychiatric residential treatment programs.

Topic Addressed: State Educational Agency General Supervisory Authority

- Letter dated September 21, 2001 to New York State SAFE (Schools Are For Everyone) President Holly B. Nann, regarding the requirements for filing a complaint with a State educational agency and the obligations the State has in responding to a filed complaint.

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

Topic Addressed: Evaluations and Reevaluations

- Letter dated September 24, 2001 to Virginia Department of Education Assistant Superintendent H. Douglas Cox, regarding the Part B of IDEA requirement that parental consent must be obtained before the initial evaluation, the reevaluation, and the provision of special education and related services and the fact that Part B of the IDEA does not permit public agencies to override a parent's refusal of consent for initial services.

Topic Addressed: Individualized Education Programs

- Letter dated July 2, 2001 to Marilyn Shepherd, Ed.D., clarifying issues regarding the presence of media at individualized education program (IEP) meetings, including that, although parents or the agency have the discretion to invite individuals who have knowledge or special expertise regarding the child to participate at IEP meetings, members of the news media are not there as IEP team members who have knowledge or special expertise regarding the child and his or her specific IEP development in accordance with Part B, and their presence as observers during discussions of sensitive issues could be potentially injurious to the interest of the child.

- Letter dated July 23, 2001 to U.S. Senator Hillary Rodham Clinton, clarifying that although Federal rules do not disallow the presence of an attorney at an IEP meeting, participation by an attorney could create a potentially

adversarial atmosphere and should be strongly discouraged.

Section 615—Procedural Safeguards

Topic Addressed: Independent Educational Evaluations

- Letter dated September 10, 2001 to Wisconsin Director of Special Education Dr. Stephanie J. Petska, regarding the qualifications that school districts may require of individuals who conduct independent educational evaluations.

Part C—Infants and Toddlers With Disabilities

Section 636—Individualized Family Service Plan

Topic Addressed: Natural Environments

- Letter dated August 6, 2001 to U.S. Senator Richard Shelby, regarding the

history of implementation of the natural environments requirements of Part C of the IDEA since the early intervention program was originally enacted, and clarifying that, based on the child's individualized family services plan (IFSP), appropriate services can be provided in center-based programs.

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Dated: February 14, 2002.
(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Loretta L. Petty,

Acting Assistant Secretary for Special Education and, Rehabilitative Services.

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