

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

**AGENCY:** Department of Education.

**ACTION:** List of correspondence from October 1, 1997 through December 31, 1997.

**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 this Act or the regulations implemented pursuant to this Act."

**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 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday, except Federal holidays.

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**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued between October 1, 1997 and December 31, 1997.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters 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 B—Assistance for Education of all Children with Disabilities Section 612 State Eligibility**

*Topic Addressed: Free Appropriate Public Education*

- Letter dated October 3, 1997 to an individual, (personally identifiable

information redacted), regarding possible eligibility for special education and related services under Part B of IDEA for children ineligible for Supplemental Security Income benefits.

- Letter dated October 7, 1997 to Ms. Joann Biondi, Berkeley Unified School District, Berkeley, California, regarding which school district is responsible for educating a child with a disability whose parents are divorced.

*Topic Addressed: Free Appropriate Public Education for Eligible Youth With Disabilities Incarcerated in Adult Prisons*

- Letters dated November 6, 1997 to Mr. Russell Shaddix, Eureka City Schools, Eureka, California; Mr. Richard D. Teagarden and Mr. Dan Halcomb, Yuba County Office of Education, Marysville, California; and Mr. George Galaza, Warden, California State Prison, Corcoran, California, regarding flexibility afforded to States in meeting their obligations to provide a free appropriate public education to this population of disabled students.

*Topic Addressed: Least Restrictive Environment*

- Letter dated October 3, 1997 to Sister Mary Ramona, Felician School for Exceptional Children, Inc., Lodi, New Jersey, regarding the continuum of alternative placements.

- Letter dated October 22, 1997 to Mr. Donald C. Buell, Hinsdale Township High School District No. 86, Oak Brook, Illinois, regarding absence of Part B definitions of terms "regular classes" and "inclusion."

- Letter dated December 31, 1997 to Mr. Mark Hall, Neighborhood Schools Now!, Chantilly, Virginia, regarding the relationship of the individualized education program and least restrictive environment requirements of the IDEA Amendments Act of 1997.

*Topic Addressed: General Supervision*

- Letter dated November 6, 1997 to Mrs. Leslie M. Averna, Associate Commissioner, Division of Educational Programs and Services, Connecticut Department of Education, regarding intervals for a State's monitoring cycle.
- Letter dated November 18, 1997 to Honorable Sandy Garrett, Oklahoma State Superintendent of Public Instruction, regarding the scope of a State educational agency's general supervisory responsibility, including its primary responsibility for resolution of complaints alleging violations of Part B.

*Topic Addressed: Confidentiality*

- Letter dated December 23, 1997 to individual, (personally identifiable

information redacted), regarding obligations of States to disclose individual student data in a non-personally identifiable manner.

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

*Topic Addressed: Evaluations*

- Letter dated November 14, 1997 to an individual (personally identifiable information redacted), regarding absence of time periods in Part B within which a school district must respond to a parent's request for evaluation.

*Topic Addressed: Individualized Education Programs*

- Letter dated October 29, 1997 to an individual, (personally identifiable information redacted), regarding regular education teacher's participation on the IEP team.
- Letter dated November 21, 1997 to Mr. Edward J. Sarzynski, Esq. of Binghamton, New York, regarding IEPs for children receiving home schooling.
- Letter dated November 6, 1997 to an individual, (personally identifiable information redacted), regarding consideration of a child's need for assistive technology.

**Section 615—Procedural Safeguards**

*Topic Addressed: Surrogate Parents*

- Letter dated December 3, 1997 to Mr. John Copenhaver, Mountain Plains Regional Resource Center, regarding attorney's fees for a surrogate parent and limitations on removal of surrogate parents.

*Topic Addressed: Due Process Hearings*

- Letter dated October 22, 1997 to Dr. Juanita S. Pawlisch, Wisconsin Department of Public Instruction, regarding the applicability of a State statute of limitations to a parent's right to request a due process hearing under Part B.

*Topic Addressed: Pendency Placement*

- Letter dated November 26, 1997 to Dr. Paul Chassy, Esq. of Kensington, Maryland, regarding determination of child's pendency placement if parties are unable to agree.

*Topic Addressed: Discipline Procedures*

- OSEP Memorandum 97-7 dated September 19, 1997 entitled "Initial Disciplinary Guidance related to Removal of Children with Disabilities from Their Current Educational Placements for Ten School Days or Less."

- Letter dated October 9, 1997 to U.S. Congressman Zach Wamp, regarding suspensions of up to ten school days.

- Letter dated October 3, 1997 to an individual, (personally identifiable information redacted), regarding when a hearing officer may order the change in the placement of a child with a disability to an appropriate interim alternative educational setting for up to 45 days.

- Letter dated December 3, 1997 to Mr. Richard Bachman, Principal, Midwest City High School, Midwest City, Oklahoma, regarding when a student with a disability can be excluded from school for more than 45 days.

- Letter dated November 6, 1997 to U.S. Congressman Ike Skelton, letter dated December 17, 1997 to Mr. Paul E. Miller, Principal, Laquey R-V High School, Laquey, Missouri, and letter dated December 18, 1997 to individual, (personally identifiable information redacted), regarding options available to

school authorities in disciplining disabled students.

- Letter dated December 8, 1997 to Dr. James V. Parker, Jr., Wilkes County Board of Education, Washington, Georgia, regarding resources for providing alternative programming for disabled students disciplined under the Act.

- Letter dated December 17, 1997 to U.S. Congressman John Tanner, regarding applicability of Gun-Free Schools Act to student with disabilities.

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**Note:** The official version of a document is the document published in the **Federal Register**.

Dated: August 21, 1998.

**Curtis L. Richards,**

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

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

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