

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

AGENCY: Department of Education.

ACTION: List of correspondence from January 2, 1998 through March 31, 1998

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 a.m. and 8 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 January 2, 1998 and March 31, 1998.

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 A—General Provisions*Section 602 Definitions*

Topic Addressed: Disability Categories

- Letter dated January 12, 1998 to an individual, (personally identifiable information redacted), regarding provision of special education services

to a child with a sexually transmitted disease.

- Letter dated March 31, 1998 to U. S. Congressman Thomas C. Sawyer regarding eligibility of children with Attention Deficit Disorder under the "other health impairment" category.

Section 607 Requirements for Prescribing Regulations

Topic Addressed: Applicable Regulations

- Letter dated February 20, 1998 to Ms. Larisa Cummings, Esq., Oakland, California, regarding applicability of current regulations while publication of final regulations is pending.

Part B—Assistance for Education of All Children With Disabilities*Section 612 State Eligibility*

Topic Addressed: Free Appropriate Public Education

- Letter dated January 8, 1998 to Ms. Margie Best, Esq., Chicago, Illinois, regarding which school district is obligated to provide special educational services to a disabled child whose parents are divorced, if the child lives in a school district other than where the mother resides, and the father's whereabouts are unknown.
- Letter dated January 8, 1998 to Mrs. Faanati Penitusi, American Samoa Parent Network, regarding when charging of incidental fees is permissible.
- Letter dated February 11, 1998 to an individual, (personally identifiable information redacted), regarding a school district's obligation to continue to make a free appropriate public education (FAPE) available to a disabled student who breaks a student behavior contract.
- Letter dated February 23, 1998 to an individual, (personally identifiable information redacted), regarding school district's obligation to ensure the provision of FAPE despite lack of adequate personnel or resources.

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

- Letter dated March 11, 1998 to an individual, (personally identifiable information redacted), regarding flexibility afforded to States in meeting their obligations to provide FAPE to this population of disabled students.

Topic Addressed: Least Restrictive Environment

- Letter dated February 4, 1998 to William R. Bauer, Director, The Day School, Pittsburgh, Pennsylvania,

regarding the requirement in the IDEA Amendments of 1997 addressing a funding mechanism by which a State distributes State funds based on the setting in which a disabled child is receiving services.

Topic Addressed: Children With Disabilities Placed in Private Schools by Their Parents

- Letter dated January 29, 1998 to U.S. Congressman Richard Burr, regarding the applicability to public agencies, not personnel of private schools or facilities, of the Part B requirements governing services to children with disabilities placed in private schools by their parents.
- Letter dated February 26, 1998 to Dr. James F. McKethan, Director, Exceptional Children's Program, Cumberland County Schools, Fayetteville, North Carolina, regarding the nature and extent of school districts' obligations to this class of disabled students.

Topic Addressed: General Supervision

- Letter dated January 7, 1998 to Dr. Ora Spann, Director, Office of Programs for Children with Disabilities, South Carolina Department of Education, regarding State education standards.
- Letter dated January 8, 1998 to Dr. Bill East, Assistant Director, Division of Special Education Services, Alabama Department of Education, and letter dated January 8, 1998 to an individual, (personally identifiable information redacted), regarding State complaint procedures and State educational agency responsibility to ensure timely resolution of State complaints.

Topic Addressed: Participation of Children With Disabilities in State and District-Wide Assessments

- Letter dated February 2, 1998 to Ms. Patti J. Muhlenkamp, Wyoming Department of Education, regarding importance of compliance with this requirement.

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

Topic Addressed: Evaluations

- Letter dated February 25, 1998 to Ms. Linda Maron, Acting Assistant Executive Director for Unified Services, Minneapolis Public Schools, Minneapolis, Minnesota, regarding requirements applicable to evaluations and reevaluations of children suspected of having learning disabilities and mental impairments.
- Letter dated March 3, 1998 to an individual (personally identifiable

information redacted), regarding additional protections in IDEA Amendments of 1997 to address over-identification of minority students in special education.

Topic Addressed: Individualized Education Programs

- Letter dated January 23, 1998 to John B. Heskett, Assistant Commissioner, Division of Special Education, Department of Elementary and Secondary Education, Jefferson City, Missouri, regarding participation on IEP teams of individuals invited at the request of parents.

- Letter dated March 31, 1998 to U.S. Senator Tom Harkin regarding use of positive behavioral interventions, strategies, and supports.

Section 615 Procedural Safeguards

Topic Addressed: Notice to Parents

- Letter dated March 31, 1998 to an individual, (personally identifiable information redacted), regarding the types of information parents are entitled to receive about their child's educational program.

Topic Addressed: Due Process Hearings

- Letter dated March 6, 1998 to an individual, (personally identifiable information redacted), regarding the Department's lack of jurisdiction over decisions reached in a due process hearing or subsequent court action, and the Department's inability to grant relief to parties involved in such proceedings.

Topic Addressed: Discipline Procedures

- Letter dated January 20, 1998 to U.S. Senator Thad Cochran and letter dated March 13, 1998 to an individual, (personally identifiable information redacted), regarding options available to school authorities in disciplining disabled students.

- Letter dated February 23, 1998 to an individual, (personally identifiable information redacted), regarding educational services for disabled students expelled from school.

Part C—Infants and Toddlers With Disabilities [Previously Part H]

Sections 631–641

Topic Addressed: General Information About Statutory Changes Made to Part C by IDEA Amendments of 1997

- OSEP Memorandum 98–1 dated January 7, 1998 to interested parties, entitled "Information Related to Statutory Changes to Part H of IDEA."

Section 632 Definitions

Topic Addressed: Provision of Early Intervention Services at No Cost

- Letter dated March 4, 1998 to Maureen Greer, Assistant Deputy Director, Bureau of Child Development, Family and Social Services Administration, Indianapolis, Indiana, regarding when States can access Medicaid and private insurance in ensuring the provision of appropriate early intervention services.

Section 634 Eligibility

Topic Addressed: Obligation to Serve All Infants and Toddlers With Disabilities in the State and Their Families

- Letter dated January 7, 1998 to Mr. Carlos Flores, Manager, Prevention and Children Services Branch, Department of Developmental Services, Sacramento, California, regarding the relationship between the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Part H, now Part C.

Section 635 Requirements for Statewide System

Topic Addressed: Personnel Standards

- Letter dated March 6, 1998 to Ouida Holder, Coordinator, Early Intervention Program, Alabama Department of Rehabilitation Services, regarding personnel standards for providers of special instruction.

Part D—National Activities to Improve Education of Children With Disabilities

Section 652 Eligibility and Collaborative Process, Section 653 Applications, Section 654 Use of Funds

Topic Addressed: State Program Improvement Grants for Children With Disabilities

- OSEP Memorandum 98–4 dated February 24, 1998 to interested parties, entitled "Guidance Related to State Program Improvement Grants to Improve Education for Children with Disabilities."

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

Dated: September 3, 1998.

(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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