

Topic Addressed: Least Restrictive Environment

- Letter dated July 23, 2003, to individual (personally identifiable information redacted), clarifying that neither the IDEA nor its implementing regulations define the term “regular classes” nor do they limit the number, or percentage, of students with disabilities that may be placed into a specific regular classroom in order to provide FAPE in the least restrictive environment, consistent with the requirements of 34 CFR 300.550–300.556.

- Letter dated July 1, 2003, to individual (personally identifiable information redacted), clarifying that, under the IDEA, private schools are not subject to the same admission policies which apply to public schools and services plans are prepared only for private school children with disabilities who are designated to receive services.

Topic Addressed: Maintenance of Effort

- Letter dated August 1, 2003, to Washington State Audit Manager Brad White, clarifying that an LEA is not permitted to reduce its level of expenditures under Part B of the IDEA below the level of expenditures for the preceding fiscal year if the decrease is attributed to a reduction in the LEA’s retirement rates for its staff.

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

- Letter dated July 14, 2003, to New Hampshire Disabilities Rights Center Executive Director Dr. Richard Cohen, regarding the requirements for the disaggregation and reporting of assessment and performance indicator data to the public and the Secretary under the IDEA and Title I of the Elementary and Secondary Education Act of 1965, as amended.

Section 613—Local Educational Agency Eligibility

Topic Addressed: Charter Schools

- Letter dated August 8, 2003, to New York State Education Department Deputy Commissioner Lawrence C. Gloeckler, regarding the status of charter schools under New York law for the purposes of Part B of the IDEA and requesting clarification on how the State is ensuring that the requirements for charter schools under the IDEA are being met.

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

Topic Addressed: Evaluations and Reevaluations

- Letter dated September 5, 2003, to Hofstra University Professor Frank G. Bowe, clarifying that an agency may not use the due process procedures under the IDEA to override the requirement that informed parental consent be obtained before the initial provision of special education and related services.

- Letter dated September 3, 2003, to U.S. Senator Ben Nighthorse Campbell, regarding the use of intelligence quotient tests to determine the eligibility of students with disabilities for special education under section 504 of the Rehabilitation Act of 1973 and under the IDEA.

Topic Addressed: Individualized Education Programs

- Letter dated August 28, 2003, to Fort Thomas Kentucky Independent Schools Assistant Superintendent Rita Byrd, clarifying that Federal regulations do not address the public agency’s responsibility to make an employee of the agency, including a student’s former teacher, available for IEP meetings.

- Letter dated August 28, 2003, to individual (personally identifiable information redacted), clarifying that whether an employee who is not required by 34 CFR 300.344(a) to be part of an IEP team may be required to attend or be charged leave to attend an IEP meeting is a matter of State and/or local policy.

- Letter dated July 25, 2003, to individual (personally identifiable information redacted), regarding which parties are responsible under the IDEA for developing, reviewing, and, if appropriate, revising the IEP and clarifying that the decision as to who is responsible for putting IEP team decisions in writing is made by the public agency.

Section 615—Procedural Safeguards

Topic Addressed: Surrogate Parents

- Letter dated July 10, 2003, to New Hampshire State Director of Special Education Mary J. Ford, regarding the distinction between a surrogate parent under 34 CFR 300.515 and a person acting as a parent under 34 CFR 300.20.

Part C—Infants and Toddlers With Disabilities

Section 635—Requirements for Statewide System

Topic Addressed: Procedural Safeguards

- Letter dated August 19, 2003, to individual (personally identifiable information redacted), regarding (1) the Office for Civil Rights’ authority over complaints related to discrimination based on disability, (2) the resolution of individual complaints and the award of compensatory services under Part C of the IDEA, and (3) the lead agency’s responsibility for general supervision of all Part C programs and activities, including the monitoring of agencies carrying out Part C services.

Other Letters That Do Not Interpret the IDEA But May Be of Interest to Readers

Topic Addressed: Free Appropriate Public Education

- Letter dated August 28, 2003, to Chief State School Officers, regarding implementation of the Title I choice and supplemental educational services provisions of the No Child Left Behind Act of 2001 (NCLB).

Topic Addressed: Confidentiality of Education Records

- Letter dated July 2, 2003, to Chief State School Officers, regarding (1) release of student information to military recruiters under the National Defense Authorization Act for Fiscal Year 2002 and (2) the process by which parents are notified and have an opportunity to request that this information not be disclosed without their consent, similar to the “directory information” provisions under the Family Educational Rights and Privacy Act.

Topic Addressed: Personnel Standards

- Letter dated July 28, 2003, to Chief State School Officers, regarding provisions in NCLB, the Teacher Assistance Corps, and efforts to share ideas about improvements in teacher quality.

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