



# Federal Register

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**Friday,  
December 29, 2000**

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**Part IV**

## **Department of Education**

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**Office of Special Education and  
Rehabilitative Services; List of  
Correspondence; Notice**

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

**AGENCY:** Department of Education.

**ACTION:** List of correspondence from April 1, 2000 through June 30, 2000.

**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) 205-5465 or the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternative 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 April 1, 2000 through June 30, 2000.

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: Child With a Disability

- Letter dated June 3, 2000 to individual, (personally identifiable information redacted), regarding the obligation of States and LEAs to appropriately evaluate children with attention deficit hyperactive disorder

(ADHD) under Part B of IDEA, and clarifying the relationship of relevant State requirements to applicable Part B requirements.

Topic Addressed: Educating Children With Particular Disabilities

- Notice of Policy Guidance dated June 5, 2000 entitled "Educating Blind and Visually Impaired Students: Policy Guidance," updating guidance issued in 1995 for consistency with 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: Distribution of Funds

- OSEP memorandum 00-15 dated May 18, 2000 regarding formula allocations to States and required adjustments to the December 1, 1998 child count.
- OSEP memorandum 00-17 dated June 26, 2000 regarding implementation of the new funding formula under IDEA and the year of age cohorts for which FAPE is ensured.

*Section 612—State Eligibility*

Topic Addressed: Free Appropriate Public Education

- Letter dated June 9, 2000 to American Music Therapy Association Executive Director Andrea H. Farbman regarding the provision of music therapy as a related service for students with disabilities.

Topic Addressed: Least Restrictive Environment

- Letters dated May 22, 2000 to individuals (personally identifiable information redacted), clarifying that under the IDEA Amendments of 1997, the first placement option considered for each disabled student is the regular classroom with appropriate supplementary aids and services.

Topic Addressed: Children Enrolled By Their Parents In Private Schools

- OSEP memorandum 00-14 dated May 4, 2000 restating and consolidating guidance on the nature and extent of school districts' obligations to parentally-placed private school children under Part B.

Topic Addressed: Home-Schooling

- Letters dated April 20, 2000 and April 27, 2000 to individuals, (personally identifiable information redacted), clarifying the nature and extent of school districts' obligations to children with disabilities who are

home-schooled by their parents and that State law determines whether home schools are included in the definition of private schools.

Topic Addressed: State Educational Agency General Supervisory Authority

- Letter dated March 30, 2000 to Virgin Islands Department of Health Commissioner William K. Callender and Department of Education Commissioner Ruby Simmonds, regarding special conditions placed on expenditure of funds because of these Virgin Island agencies' status as high risk grantees.

- Letters dated June 21, 2000 to California Department of Education Superintendent of Public Instruction Delaine Eastin and Assistant Superintendent of Public Instruction Alice Parker, regarding the status of California's compliance with the requirements of Part B of IDEA.

Topic Addressed: Information Required for Receipt of Grant Awards

- OSEP memorandum 00-16 dated June 13, 2000 regarding review of eligibility documents and issuance of grant awards to States for Federal Fiscal Year 2000.

*Section 613—Local Educational Agency Eligibility*

Topic Addressed: Charter Schools

- Letter dated April 20, 2000 to Louisiana Department of Education Deputy Superintendent Marlyn Langley, clarifying the basis under which an SEA can distribute sliver grants and set-aside funds to charter schools that are established as LEAs.

Topic Addressed: Use of Federal Funds

- Letter dated May 12, 2000 to New York State Education Department Deputy Commissioner Lawrence Gloeckler, clarifying that a State cannot require an LEA to use its Part B flow-through funds to make payments to a private school that provided special education and related services to a child with a disability.

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and educational placements.*

Topic Addressed: Evaluations and Reevaluations

- Letters dated March 29, 2000 to Michigan Department of Education Special Education Services Director Jacquelyn J. Thompson and to individuals (personally identifiable information redacted), and June 27, 2000 to U.S. Senator Don Nickles, regarding requirements applicable to a

parent's right to an independent educational evaluation at public expense.

- Letter dated June 7, 2000 to Attorney Jennifer L. Scheinz clarifying that parents who disagree with a functional behavioral assessment which is not part of an initial evaluation, a required reevaluation, or in response to any disciplinary action, but is conducted to develop an appropriate IEP, are entitled to an independent educational evaluation at public expense.

Topic Addressed: Individualized Education Programs

- Letter dated May 26, 2000 to Pennsylvania School Counselors Association Executive Director Robert B. Cormany regarding the use of school counselors as public agency representatives on the IEP team.

- OSEP memo 00-19 dated June 30, 2000 regarding guidance on the Part B IEP requirements for children with disabilities, including preschool-aged children.

*Section 615—Procedural Safeguards*

Topic Addressed: Prior Written Notice

- Letter dated April 20, 2000 to individual, (personally identifiable information redacted), regarding the requirement for prior written notice before a change in educational placement.

Topic Addressed: Due Process Hearings

- Letter dated May 1, 2000; to Paul L. Erickson, Esquire, regarding North Carolina's application of a 60-day limitation period to administrative reviews for all claims under IDEA.

### **Part C: Infants and Toddlers With Disabilities**

*Sections 631-641*

Topic Addressed: Provision of A Free Appropriate Public Education to Children With Disabilities Below Age 3

- Letter dated May 17, 2000 to Vermont Department of Education Manager for Special Education Susan Cano, clarifying that when a child below age three receives FAPE, States must comply with the requirements of: (1) Both Parts B and C of IDEA when Part B funds are used, and (2) with Part C even if no IDEA Part B or C funds are used for that child as long as the State receives any Part C funds.

Topic Addressed: Natural Environments

- Letter dated May 12, 2000 to individual (personally identifiable information redacted), regarding a State's responsibility to ensure the provision of early intervention services in natural environments, to the maximum extent appropriate to the needs of the child, and the Individualized Family Service Plan Team's responsibility to determine the

location in which those services are provided.

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Dated: December 21, 2000.

**Curtis L. Richards,**

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

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