



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

**FEB - 1 2008**

Ms. Frankie McCabe, Director  
Office of Special Education and Diversity Programs  
Nevada Department of Education  
700 E. Fifth Street, Suite 113  
Carson City, Nevada 89701-5096

Dear Ms. McCabe:

This letter is in response to your electronic mail (email) communication to Ruth Ryder regarding the significant disproportionality regulation at 34 CFR §300.646. Thank you for your comments on this important issue. We continue to believe our position, as expressed in our April 24, 2007 Memorandum, that States must require the reservation of funds for comprehensive coordinated early intervening services upon a finding of significant disproportionality based on race and ethnicity for disciplinary actions, is correct. OSEP continues to explore whether additional guidance may be necessary and will take your comments into consideration.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

I appreciate your comments and hope this information is helpful. If you have further questions, please do not hesitate to contact Marie Mayor at 202-245-7433.

Sincerely,

Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs