



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

JUN - 3 2008

Ms. Frances F. Loose
Supervisor, Program Improvement
Office of Special Education and Early Intervention Services
608 W. Allegan
Lansing, MI 48933

Dear Ms. Loose:

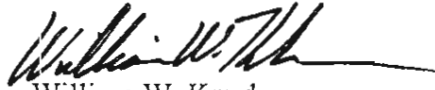
This is in response to your electronic mail (email) correspondence of February 28, 2008 to Dr. Al Jones of my staff, regarding a school district's responsibilities under 34 CFR §300.646(b) to review and, if appropriate, revise policies, procedures and practices, when the State educational agency (SEA) finds significant disproportionality with regard to the incidence, duration and type of disciplinary actions, including suspensions and expulsions in that district.

Thank you for your comments on this important issue. Our position continues to be, as expressed in our April 24, 2007 Memorandum, that, upon a finding of significant disproportionality based on race and ethnicity for disciplinary actions, States must require the review and, if appropriate, revision of policies, practices and procedures, the reservation of funds for comprehensive coordinated early intervening services and public reporting on the results of any revision of policies, practices, and procedures. In the Analysis of Comments and Changes section in the preamble to the final regulations (71 FR 46540), we indicated that the "State's review of its constituent LEAs' policies, practices, and procedures for identifying and placing children with disabilities would occur in LEAs with significant disproportionality in identification, placement, or discipline, based on the examination of the data." In that analysis, we took the position that disciplinary actions are a type of placement in an educational setting, and that the requirements in 34 CFR §300.646(b) should cover disproportionality with respect to disciplinary actions. 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.

If you have questions about these requirements, please do not hesitate to contact Dr. Al Jones, of my staff, at 202-245-7394.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Knudsen", with a long horizontal flourish extending to the right.

William W. Knudsen
Acting Director
Office of Special Education
Programs

cc. Dr. Jacquelyn Thompson