



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

Ms. Kathy Clayton
Director, IDEA Coordination
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OCT 25 2005

Dear Ms. Clayton:

Thank you for your communications regarding Texas's educational challenges in the wake of Hurricane Katrina. We are pleased to respond to your September 21, 2005 e-mail regarding the educational challenges you are facing related to displaced students with disabilities resulting from Hurricane Katrina. Additional responses from Education Secretary Margaret Spellings to requests for flexibility may be helpful and are enclosed.

We understand that Texas is making every effort to get displaced children back in school and to provide needed special education and related services as quickly as possible. For children already identified as eligible for special education, we expect that your office will assist districts in obtaining existing student records from the State's databases whenever possible, and that Individualized Education Programs (IEPs) are developed and implemented in a timely way for those children.

The questions you posed in your September 21, 2005 e-mail generally involve requests for waivers in the following areas:

- Extension of the submission date for the State Performance Plan (SPP).
- The requirements that States gather and use 2005-2006 data to establish a baseline for nine new indicators. You request that you be permitted to use 2006-2007 data as the baseline data on the new indicators.
- Meeting July 2006 timelines associated with the implementation of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004). You particularly expressed concern associated with gathering reliable stakeholder input regarding assessments of learning disabilities, early intervening services, procedural safeguards, and funds for high-need children.

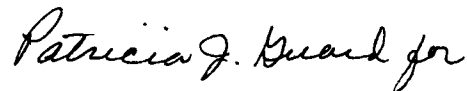
In light of the unforeseen consequences of Hurricanes Katrina and Rita, and in order to ensure an orderly transition to the requirements of the Individuals with Disabilities Education Improvement Act of 2004 (Pub. L. No.108-446) (the Act), the Secretary is exercising her transition authority under section 303 of the Act to extend the submission date for State Performance Plans (SPPs) under section 616(b)(1)(A) of the Act for 60 days for the States

with respect to which the President has declared that a hurricane disaster exists because of Hurricanes Katrina or Rita. Therefore, we are extending the due date for submission of your State's SPPs until January 30, 2006.

The U.S. Department of Education currently has no authority to waive the other program and data requirements you mention. The Department, however, is requesting a broad waiver authority that would enable the Secretary, on a case-by-case basis, to waive or modify certain provisions of federal law. The Department is not, however, seeking to waive civil rights protections of federal law.

Thank you for participating on the conference call with me on September 14, 2005 and contacting the Department to share your requests and concerns. Again, please understand that the Office of Special Education Programs (OSEP) stands with you as you confront the educational challenges related to displaced students resulting from Hurricane Katrina. The OSEP staff will continue to work closely with you during this time of new challenges. As soon as we have additional information regarding waiver authority, we will be in touch with you to discuss how that authority may be used to address your needs. If you have questions, please contact Gregg Corr at 202-245-7309 or Hugh Reid at 202-245-7491.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Program

Enclosures

cc: Gene Lenz