



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

OCT - 9 2002

Patti Ralabate
NEA Professional Associate for Special Needs
1201 16th Street, NW
Washington, D.C. 20036

Dear Ms. Ralabate:

Your letter to Dr. Robert Pasternack dated August 22, 2002 regarding the Individuals with Disabilities Education Act (IDEA) has been referred to the Office of Special Education (OSEP). You requested that the Department respond to questions developed by NEA members during the IDEA Forum. Your specific questions and OSEP's responses follow.

1. *Is it necessary to complete a change of placement form every time we have an IEP meeting—even when there is no change in the student's placement?*

Response: The IDEA never refers to a "change of placement form" and does not require the completion of a change of placement form for each IEP meeting. However, the IDEA does specifically identify the circumstances under which a school district is required to provide prior notice, which include any district proposal to change the educational placement of a child. Specifically the Act requires that parents of a child with a disability must receive a written notice within a reasonable time before the school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) to their child. If the IEP meeting does not result in a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) to their child, prior notice is not required.

2. *What is the appropriate process for providing prior written notice for change of placement for students with disabilities who are graduating from high school?*

Response: Under the IDEA, graduation with a regular high school diploma ends a student's eligibility for Part B services and is considered a change in placement requiring prior written notice within a reasonable time before the school proposes to graduate the student. When public agencies make the determination that the Part B eligibility of a student with a disability should be terminated because the student has met the requirements for a regular high school diploma, it is important to ensure that the student's rights under the Act are not denied and parents are

well informed in order to protect the rights of their child. Parents should have the option, as with any public agency proposal to change the educational program or placement of a child with a disability, to seek to resolve any disagreement with the proposal to graduate the student through mediation, due process proceedings, or other appropriate means.

3. *What format is required for reporting progress on IEP goals to parents? Is it permissible to use a check-off item or section on the student's regular report card that addresses whether or not the student is making progress on his/her IEP goals?*

Response: The IDEA does not require or specify a format for reporting progress on IEP goals to parents. The Act does require that the IEP for each child with a disability include a statement of how parents will be regularly informed, at least as often as parents of a nondisabled child, of their child's progress toward the annual goals and the extent to which that progress will enable the child to achieve the goals by the end of the year. 34 CFR §300.347(a)(7)(ii)(A) and (B). Outside of these parameters, the IDEA does not dictate the format for these reports to parents. One method that public agencies could use in meeting this requirement would be to provide periodic report cards to the parents of students with disabilities that include both (1) the grading information provided for all children in the agency at the same intervals; and (2) the child's progress toward the IEP goals and the extent that progress is sufficient to enable the child to achieve the goals by the end of the year.

4. *How will the "highly qualified" provision of ESEA apply to special education teachers, particularly those who teach core subject areas at the middle school and high school levels?*

Response: No Child Left Behind (NCLB) §1119(a)(2) sets a goal under Title I of the Elementary and Secondary Education Act to have States ensure that all teachers teaching in core academic subjects are "highly qualified" (as defined in §9101(23)) by not later than the 2005-2006 school year. The NCLB is clear in stating that teachers both new to the profession and not new to the profession must demonstrate competence in all academic subjects in which the teacher teaches. Guidance currently available may be viewed on the Internet at www.ed.gov. The Department will also post further guidance as it becomes available.

5. *What can be done to minimize the paperwork done by paraeducators?*

Response: The President's Commission on Excellence in Special Education concludes in its report, *A New Era: Revitalizing Special Education for Children and Their Families*, that the "IDEA federal regulatory and administrative requirements imposed on state and local educational agencies are burdensome and should be dramatically simplified to be more understandable for parents,

educators and administrators.” The Commission recommends that up to 10 states be allowed to propose paperwork reduction strategies under IDEA to the Secretary. Paperwork reduction is also an area that individuals responding to a Federal Register notice seeking comments regarding the reauthorization of the IDEA asked that we consider. These recommendations, along with others we have received, will be considered as we move forward in the reauthorization process.

We are currently involved in a number of activities regarding paperwork reduction. For example, this fall OSEP is conducting a paperwork survey of a nationally representative sample of 1,000 special education teachers to provide specific information on the types of paperwork and administrative duties teachers complete, the amount of time devoted to these tasks, and the factors that produce variation among teachers in these results. In June 2002, Project FORUM at the National Association of State Directors of Special Education (NASDSE) hosted a policy forum to discuss the issue of paperwork and to determine ways of addressing the problem from the perspective of parents, service providers and administrators at the State and local levels.

6. *Why hasn't the Administration supported full funding of IDEA?*

Response: The Administration recognizes the many challenges faced by States and public agencies in carrying out their responsibility to educate children with disabilities. The Administration also recognizes the importance of providing additional funding and that is why the President's budget for fiscal year 2002 included the largest increase ever proposed by a President in his budget. In addition, we believe that solutions to these challenges should be addressed within the context of a thorough review of the IDEA. The Department has already begun to prepare for the reauthorization of IDEA in an effort to address the issues that impact improved services to students with disabilities.

7. *What should local districts do to address the needs of English Language Learners who have disabilities?*

Response: The Act requires that the IEP team consider the language needs of a child with limited English proficiency (LEP) as those needs relate to the child's IEP. It is important that the IEP team consider how the child's level of English language proficiency affects the special education and related services that the child needs in order to receive FAPE. Any decisions regarding the extent a child with limited English proficiency will receive instruction in English or the child's native language, the extent to which a child with limited English proficiency with a disability can participate in the general curriculum, or whether English language tutoring is a service that must be included in a child's IEP, must be made by the child's IEP team and based on the individual needs of the child. Title VI of the Civil Rights Act of 1964 also requires school districts to provide children with limited English proficiency with alternative language services to enable them to

acquire proficiency in English and to provide them access to the total range of educational services provided by the school, including special education and related services. The IEP team must also address whether the special education and related services that the child needs will be provided in a language other than English.

I hope this response to the questions presented by the NEA members provides the necessary clarification. If you need further assistance, please contact Dr. JoLeta Reynolds of my office at (202) 205-5507.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie S. Lee".

Stephanie S. Lee
Director
Office of Special Education Programs