



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

August 2, 2018

Lawrence Siegel, Esq.
101 Lucas Valley Road
Suite 265
San Rafael, California 94903

Dear Mr. Siegel:

This letter is in response to your electronic mail correspondence to the Office of Special Education Programs and follow-up phone conversation with Lisa Pagano of my staff. You requested clarification as to whether there is a general notification requirement to all parents regarding special education laws and processes. Specifically, you asked if a local educational agency (LEA) has a duty to notify parents of the Individuals with Disabilities Education Act (IDEA) prior to their child being referred for an evaluation and identified as a child with a disability. We regret the delay in responding.

We note that section 607(d) of the Individuals with Disabilities Education Act (IDEA) prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the Department of the requirements of IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

The provisions related to child find in section 612(a)(3) of the IDEA require that States have in effect policies and procedures to ensure that all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, children with disabilities attending private schools, regardless of the severity of their disability, and who are in need special education and related services are identified, located, and evaluated. 20 U.S.C. §1412(a)(3) and 34 CFR §300.111. This requirement, known as child find, applies to all children suspected of having a disability under the IDEA, including highly mobile and migrant children with disabilities, as well as those suspected of having developmental delays, as defined in 34 CFR §300.8(b). 34 CFR §300.111(a), (b), and (c). LEAs must also have child find policies and procedures in effect that are consistent with the State's policies and procedures. 34 CFR §§300.200-300.201. In addition, a State must ensure that a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services. 34 CFR §300.111(a)(ii). Therefore, as part of a State's child find responsibilities, a State must carry out activities to determine whether a child is a child suspected of having a disability who should be referred for an evaluation to determine eligibility for special education and related services under Part B.

While LEAs have specific child find responsibilities, there are no specific provisions under IDEA that require LEAs to provide information about IDEA to all parents, regardless of whether

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their child is suspected of having a disability. We note, however, that States may have specific public awareness requirements as part of their State policies and procedures.

If you have any further questions, please do not hesitate to contact Ms. Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs