

**DEPARTMENT OF EDUCATION****List of Correspondence—Office of Special Education and Rehabilitative Services**

**AGENCY:** Department of Education.

**ACTION:** List of correspondence from October 1, 1998 through December 31, 1998.

**SUMMARY:** The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act (IDEA). Under section 607(d) of IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of IDEA or the regulations that implement IDEA.

**FOR FURTHER INFORMATION CONTACT:** JoLeta Reynolds or Rhonda Weiss. Telephone: (202) 205-5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205-5465 or the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday, except Federal holidays.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mincey, Director of the Alternate Formats Center. Telephone: (202) 205-8113.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued between October 1, 1998 and December 31, 1998.

Included on the list are those letters that contain interpretations of the requirements of IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

**Part A****General Provisions***Section 607—Requirements for Prescribing Regulations*

Topic Addressed: Applicability of Regulations

Letter dated November 13, 1998 to U.S. Congresswoman Jo Ann Emerson, regarding (1) States' and school districts' obligations, pending publication of final regulations, to comply with all applicable provisions of the IDEA Amendments of 1997 and provisions of the then current regulations that were not in conflict with the IDEA Amendments of 1997, and (2) the importance of a new requirement governing the development of individualized education programs for deaf and hard of hearing children under Part B of IDEA.

**Part B****Assistance for Education of all Children With Disabilities***Section 612—State Eligibility*

Topic Addressed: Free Appropriate Public Education

Letter dated November 20, 1998 to Arizona Department of Education Superintendent Lisa Graham Keegan and Mr. Terry Stewart, Arizona Department of Corrections, regarding the responsibility of the Arizona Department of Education under Part B of IDEA, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans With Disabilities Act of 1990 to ensure the availability of a free appropriate public education to eligible youth with disabilities incarcerated in adult prisons and correctional facilities.

Letter dated December 4, 1998 to Dr. Ellen Morris Tiegeman, School for Language and Communication Development, explaining that a public agency is not obligated to reimburse for tuition costs for nondisabled preschool aged children in order to provide integrated settings to implement the individualized education programs of preschool aged children with disabilities.

Topic Addressed: Least Restrictive Environment

Letter dated October 7, 1998 to Daniel Kinley, New York State School Boards Association, regarding New York State's responsibility to ensure placements of disabled children that meet the least restrictive environment requirements of the IDEA in light of the State's funding formula that distributes State funds on

the basis of the type of setting in which a child is served.

Topic Addressed: State Education Agency General Supervisory Responsibility

Letter dated October 19, 1998 to U.S. Congressman William F. Goodling, regarding special conditions placed on Pennsylvania's Federal Fiscal Year 1998 Part B State grant concerning exercise of State Educational Agency's general supervisory responsibility, including effective monitoring of public agencies and securing correction of noncompliance.

Topic Addressed: Children Enrolled by Their Parents in Private Schools

Letter dated October 20, 1998, to U.S. Congressman Robert T. Matsui, regarding the extent of public agencies' obligations to provide special education and related services under Part B of IDEA to children with disabilities enrolled by their parents in private schools.

Letter dated November 13, 1998 to Helen Walter, Advocate for Hard of Hearing People, regarding limited scope of due process rights for parents who enroll their children in private schools.

*Section 613—Local Educational Agency Eligibility*

Topic Addressed: Treatment of Charter Schools and Their Students

Letter dated October 8, 1998 to Wisconsin Department of Public Instruction State Superintendent John T. Benson, regarding (1) the Department's deference to, and agreement with, the State's interpretation that schools chartered by the City of Milwaukee, like all other charter schools in the State, are public schools, (2) the obligation of charter schools to ensure the provision of a free appropriate public education to children with disabilities and the obligation of the State to ensure compliance with the IDEA, and (3) consequences of noncompliance with related Federal civil rights laws.

Letter dated November 4, 1999 to B. J. Stockton, Missouri Department of Elementary and Secondary Education, regarding the Department's view that charter schools generally should be presumed to be public schools which are subject to requirements regarding a free appropriate public education in Part B of IDEA, and clarifying that in order to be eligible for funds under the Federal Public Charter Schools Program, the participating charter schools must be public schools that comply with Part B of IDEA, Section 504 of the Rehabilitation Act of 1973, and Title II

of the Americans With Disabilities Act of 1990.

Memorandum dated August 10, 1998, to Chief State School Officers from former Assistant Secretary for the Office of Elementary and Secondary Education Gerald N. Tirozzi, regarding allocation of state-administered federal education funds to public charter schools.

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements*

Topic Addressed: Evaluations and Reevaluations

Letter dated November 18, 1998 to individual, (personally identifiable information redacted), regarding specific provisions in the IDEA Amendments of 1997 that reduce paperwork requirements, as well as the importance of ensuring local flexibility in the implementation of the IDEA Amendments of 1997.

*Section 615—Procedural Safeguards*

Topic Addressed: Timelines for Appeals

Letter dated November 13, 1998 to individual, (personally identifiable information redacted), regarding absence of timelines in Part B of IDEA for appealing due process hearing decisions or bringing of civil actions.

Topic Addressed: Student Discipline

Letter dated October 20, 1998 to U.S. Senator Ted Stevens, regarding options available to school authorities under the Individuals With Disabilities Education Act Amendments of 1997 in disciplining students with disabilities.

Letter dated November 18, 1998 to South Carolina State Representative J. Roland Smith, regarding circumstances under which students with disabilities can be subjected to more than one removal from school for ten consecutive school days or less in the same school year.

Letter dated November 5, 1998, to Mr. Dick Buscher, Paradise Valley Unified School District, regarding options available to school authorities in disciplining students with disabilities and clarifying that students with

disabilities are not automatically exempt from disciplinary sanctions because of their status as disabled students.

Letter dated October 20, 1998 to individual, (personally identifiable information redacted), letter dated December 8, 1998 to individual, (personally identifiable information redacted), and letter dated December 8, 1998 to individual, (personally identifiable information redacted), regarding options available to school authorities in disciplining students with disabilities.

Topic Addressed: Transfer of Rights

Letter dated December 21, 1998 to individual, (personally identifiable information redacted), regarding the special rule under which a State is required to appoint the parent or another appropriate individual to represent the educational interests of the student throughout his or her eligibility under the Act if the State has a mechanism to, and determines that, an individual with a disability who has reached the age of majority under State law and has not been declared incompetent, but cannot provide informed consent with respect to his or her educational program.

**Part C**

**Infants and Toddlers With Disabilities (Previously Part H)**

*Sections 631–641*

Topic Addressed: Implementation of a Statewide System

Letter dated December 16, 1998, to Mary Miller, Illinois Bureau of Part C/ Early Intervention, regarding the obligation to ensure that early intervention services are available to all eligible infants and toddlers and their families.

Topic Addressed: Evaluations

Letter dated December 30, 1998, to Ms. Ginny Duncan, Parent Education Network, regarding the role of a service coordinator on the Multidisciplinary Evaluation Team and the exclusion of

service providers from initial evaluations.

Topic Addressed: State Interagency Coordinating Council

Letter dated October 5, 1998, to Ms. Mary Alice Leonard-Heath and Mr. Wayne Fox, Co-Chairs of the Vermont Interagency Coordinating Council, regarding ICC membership of a representative of a State lead agency.

Topic Addressed: Administration of Part C Funds

OSEP Memorandum dated December 30, 1998, to Lead Agency Directors and Part C Coordinators, regarding Restricted Indirect Cost Rate for Part C of the Individuals with Disabilities Education Act.

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**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo/nara/index.html>

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: October 13, 1999.

**Judith E. Heumann,**

*Assistant Secretary for Special, Education and Rehabilitative Services.*

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