



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

OCT - 9 2002

Colleen Baumtrog, Ph.D.
Executive Director of Special Education
Minneapolis Public Schools
2225 East Lake Street
Minneapolis, Minnesota 55407

Dear Dr. Baumtrog:

This is in response to your letter of February 8, 2002, to Dr. Robert Pasternack, Assistant Secretary for the Office of Special Education and Rehabilitative Services. When you met with Dr. Pasternack on January 22, 2002, you shared information with him regarding Minneapolis Public Schools' (MPS') "Problem Solving Model" (PSM) for the identification of students with high incidence disabilities. In your letter, you provide additional information regarding the PSM, and request a letter of endorsement from this Department in your effort to gain formal state approval of the PSM. You also ask for the Department's "view on IQ [intelligence quotient] tests, if they are required by federal law, and the use of ability-achievement discrepancy based procedures for determining the eligibility of LD [specific learning disabilities]."

The regulations promulgated under Part B of the Individuals with Disabilities Education Act (IDEA) set forth, at 34 CFR §§300.530-300.536, specific requirements that public agencies must follow in evaluating and identifying children with disabilities, and 34 CFR §§300.540-300.543 set forth additional procedures for evaluating children with specific learning disabilities. Neither the Act nor the Part B regulations require the use of IQ tests as part of an initial evaluation or a reevaluation.

The current Part B regulations require, at 34 CFR §300.541, that:

- (a) A team may determine that a child has a specific learning disability if -- (1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in [34 CFR §300.541(a)(2)], if provided with learning experiences appropriate for the child's age and ability levels; and (2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas: (i) Oral expression. (ii) Listening comprehension. (iii) Written expression. (iv) Basic reading skill. (v) Reading comprehension. (vi) Mathematics calculation. (vii) Mathematics reasoning.
- (b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of -- (1) A visual, hearing, or motor impairment; (2) Mental retardation; (3) Emotional disturbance; or (4) Environmental, cultural or economic disadvantage.

The Commission on Excellence in Special Education and a number of commenters providing input into the reauthorization of the IDEA have raised issues concerning the current Part B requirements regarding the identification of children with specific learning disabilities, and we are closely reviewing those requirements as part of the reauthorization process. The current Part B regulations, however, specifically require that, to determine that a child has a specific learning disability, a public agency must find that the child has a severe discrepancy between achievement and intellectual ability in one or more of the areas specified in 34 CFR §300.541(a)(2). Neither the IDEA nor the Part B regulations require that any particular methodology be used to determine whether such a discrepancy exists for a particular child. As stated above, however, the Part B regulations, at 34 CFR §§300.530-300.536, set forth specific requirements that public agencies must meet in evaluating and identifying children with disabilities, and set forth additional procedures for evaluating children with specific learning disabilities at 34 CFR §§300.540-300.543.

As the State Educational Agency for Minnesota, the Department of Children, Families & Learning (DCFL) is responsible for establishing and implementing procedures for ensuring that all eligible children with disabilities are identified, located and evaluated, and that a free appropriate public education is made available to all such children. DCFL is also responsible for ensuring that Part B funds are not used to serve children who do not meet the Part B definition of “child with a disability.” It is the role of DCFL, rather than this office, to establish State standards for determining eligibility (so long as they are consistent with Part B requirements), and to determine whether MPS’ PSM is consistent with State standards, including the requirements of Part B.

Dr. Pasternack appreciates your invitation to visit Minneapolis, and he and I will look forward to the future possibility of such a visit by one of us or by members of our staff.

If you have any questions regarding this letter, please contact Larry Ringer (202-205-9079, larry.ringer@ed.gov), Associate Director, Division of Monitoring and State Improvement Planning.

Sincerely,



for Stephanie S. Lee
Director
Office of Special Education Programs

cc: Thomas Lombard, DCFL