



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DEC 17 1999

Marc Grober
104 Muldoon Rd., No. 409
Anchorage, Alaska 99504

Dear Mr. Grober:

This is in response to your email communication to the Office of Special Education Programs (OSEP) dated November 2, 1999 captioned Compliance Timelines and Other Issues. It appears that your communication has been prompted by your ongoing concerns about the compliance of the Alaska Department of Education with the requirements of Part B of the Individuals with Disabilities Education Act (Part B), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97) and implementing Federal regulations. As explained below, the assumptions set out in your communication are incorrect.

Let me say first that all States receiving IDEA funds must, as a condition of receipt of those funds, comply with the requirements of IDEA '97 and its final implementing regulations. To the extent that State laws and regulations conflict with the Federal requirements and impose fewer protections than the Federal requirements, the requirements of IDEA '97 and its final implementing regulations would take precedence, because by accepting the Federal funds, the State has agreed to comply with the Federal requirements. As a condition for receipt of its FY 1998 Part B grant award, the Alaska Department of Education (ADE) provided an assurance to OSEP that it would comply with the requirements of the amended Federal law and all State policies and procedures previously approved under the IDEA that are not inconsistent with the IDEA Amendments of 1997. Accordingly, the Part B funding received by Alaska for FY 1998 was based on the assurance by Alaska that Alaska and its local entities would operate consistent with the Federal statute.

On March 12, 1999, the Department published final regulations implementing statutory changes made to Part B by IDEA '97 at 64 Fed. Reg. 12406, and those regulations became effective on May 11, 1999. States and school districts receiving IDEA funds for FY 1999 must comply with the requirements of IDEA '97 and its implementing regulations, as well as applicable provisions of State law to the extent State law is not inconsistent with the requirements of IDEA '97 and its implementing regulations. As explained in your communication, Alaska, as is true for many other States, requires the action of its State legislature in order to enact into State law statutory and regulatory provisions that conform to the requirements of IDEA '97 and its implementing Federal regulations.

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To account for these situations, OSEP permitted States, as a condition of receipt of their FY 1998 and 1999 Part B of IDEA grant awards, to file an assurance that for the purposes of implementing provisions of IDEA '97, throughout the period of the grant award, all public agencies in the State will comply with all of the requirements of Parts A and B of the IDEA, as amended by the IDEA Amendments of 1997, including, (1) all of the policies and procedures that were approved as part of the State's most recent prior year State plan under Part B of the IDEA that are not inconsistent with the IDEA as amended by the IDEA Amendments of 1997 and its implementing regulations; and (2) all of the eligibility requirements of the Act and its regulations. Alaska has filed such assurances. Alaska also has assured OSEP that no later than July 1, 2000, the State will revise its statutes, regulations, policies, and procedures to make them fully consistent with the IDEA as amended by IDEA '97 and its regulations, and that the State will provide the Secretary copies of the statutes, regulations, policies and procedures it has in effect to ensure that it meets each of the eligibility requirements of the Act and its implementing regulations.

Thank you for bringing your concerns to our attention. Members of my staff will continue to work with officials of the Alaska Department of Education to ensure the State's continued eligibility for Part B funding under IDEA '97 by July 1, 2000.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: P. J. Ford Slack
Alaska Department of Education