



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Dr. William Kerr Cowden
Superintendent of Schools
Big Spring School District,
45 Mount Rock Road
Newville, Pennsylvania 17241-9466

Dear Dr. Cowden:

This is in response to your letter of September 20, 1999, written as a follow-up to my letter to you dated August 9, 1999. In your letter of April 7, 1999, you expressed concerns about the absence of sufficient funding for local school districts to provide appropriate special educational services for students with disabilities, and my letter of August 9 summarized recent Congressionally mandated increases in special education funding over the past several years. In your most recent letter, however, you raise an additional concern of your School Board that the Federal Government should focus more on remedying what you refer to as, "inflexible mandates," which you indicate impede the ability of your School District to provide required educational services for students with disabilities.

Let me emphasize that the rights and protections set out in the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97) are fundamental civil rights that guarantee children with disabilities equal educational opportunity. Under IDEA '97 and the predecessor statute, States receive Federal funds to assist in providing a free appropriate public education (FAPE) to students with disabilities in return for satisfying certain specified conditions. These include requirements that eligible disabled students must receive appropriate educational services that are individually designed to address their unique needs in the least restrictive environment and that eligible students and their parents are accorded a range of due process rights and procedural safeguards. While the Federal law establishes the framework for ensuring that the rights of students with disabilities as guaranteed under IDEA are preserved, States and local school districts frequently impose their own requirements that are separate from Federal requirements in conducting their programs for the education of students with disabilities.

In the Congressional statement of findings in IDEA '97, Congress specifically recognized that "[o]ver 20 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by-

(A) having high expectations for such children and ensuring their access in the general curriculum to the maximum extent possible; . . .

and

(G) Focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results. 20 U.S.C. § 1400(c)(5)(A) and (G).

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

In particular, IDEA '97 contains a number of provisions that reduce unnecessary paper-work and direct resources to teaching and learning by: (1) permitting initial evaluations and reevaluations to be based on existing evaluation data and reports; (2) not requiring that eligibility be re-established through additional assessments when a triennial evaluation is conducted if the group reviewing the data agrees that the child continues to be a child with disability; (3) eliminating unnecessary paperwork requirements that discourage the use of IDEA funds for teachers and other personnel who provide special education and related services in regular classrooms, while ensuring that the needs of children with disabilities in those classrooms are met; and (4) by permitting State and local educational agencies to establish eligibility only once by providing policies and procedures that demonstrate that Part B eligibility conditions are met and thereafter amending them if changes are necessary.

In addition to Federal requirements, States are allowed to establish their own requirements so long as they are not in conflict with IDEA therefore, I encourage you to work with officials of the Pennsylvania Department of Education to ascertain the source of the requirements at issue, whether their origins are in Federal or State law, and if there would be a permissible way of eliminating any of the requirements you view as overly burdensome.

I am encouraged that individuals like you are committed to providing appropriate educational services to children including those with disabilities.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education
Programs