



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE

Mr. John Stager
Administrator
Program Quality Assurance Services.
Massachusetts Department of Education
350 Main Street
Malden, Massachusetts 02148-5023
Dear Mr. Stager:

FEB - 9 2000

This is in response to your letter to Dr. JoLeta Reynolds dated November 9, 1999, regarding a child count issue at Boston Renaissance Charter School (BRCS). In that letter you provided information requested by Dr. Reynolds in a previous telephone conversation. The following explanation of the child count requirements under Part B of the Individuals with Disabilities Education Act (Part B) is provided for your consideration.

Part B requires that each State Education Agency (SEA) report to the Secretary no later than February 1 of each year the number of children with disabilities aged 3 through 21 residing in the State who are receiving special education and related services. (See: 34 CFR §300.750(a)). Under §300.753(a), the SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that: (1) Provides them with both special education and related services that meet State standards; or (2) Provides them only with special education, if a related service is not required, that meets State standards. In addition, the SEA is required to establish procedures to be used by Local Education Agencies (LEAs) and other educational institutions in counting the number of children with disabilities receiving special education and related services; and to ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count. (5= §300.754 (a) & (e)). Under §300.145, the State must have policies and procedures that ensure that the State seeks to recover any funds provided under Part B for services to a child who is determined to be erroneously classified as eligible to be counted under Part B.

In the specific case prompting your inquiry, it is our understanding that during the Program Coordinated Review by the Massachusetts Department of Education (MASSDE) significant noncompliance was found at BRCS for their 1997 and 1998 Federal special education child counts. At this time, MASSDE is ordering the return of Federal special education funds because it has determined that BRCS miscounted some children.

Under §300.600(a), MASSDE is responsible for ensuring that the Part B requirements are carried out; that each education program for children with disabilities administered within the State, including each program administered by any other State or local agency, is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and that each program meets the education standards of the State. As noted in your November 9, 1999 letter, Massachusetts implements Part B through its Chapter 766 Regulations. MASSDE has determined that BCRS has counted children for whom it cannot produce documentation that services were provided consistent with Part B and applicable State standards. That being the case, consistent with its responsibility under §300.145, MASSDE has determined that BCRS must return Federal funds for children that MASSDE has determined were miscounted.

We hope that you find this explanation helpful. If you would like further assistance, please contact Dr. JoLeta Reynolds or Dr. Ken Kienas in the Office of Special Education Programs (OSEP) at (202) 205-5507, or (202) 205-9057, respectively.

Sincerely,

Kenneth R. Warlick
Director
Office of Special Education Programs

cc: Boston Renaissance Charter School