



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

December 2, 2011

Mrs. Patricia Pierce
Director of Special Education
Northwest Indiana Special Education Cooperative
2150 West 97th Place
Crown Point, IN 46307-2396

Dear Mrs. Pierce:

This is in response to your letter to Secretary of Education, Arne Duncan. Secretary Duncan forwarded your letter to me so that I might address your concerns. I apologize for the delay in responding.

In your letter, you raise two specific issues regarding determining adequate yearly progress (AYP) for public schools: (1) that students with the most significant cognitive disabilities who receive a Certificate of Completion are not counted as high school graduates; and (2) that data regarding students served by the Northwest Indiana Special Education Cooperative (NISEC) are counted in the school district in which they are served rather than their schools of residence.

With regard to your concern about high school graduation, for reporting and determining AYP at the school and district levels, a State must calculate a “four-year adjusted cohort graduation rate” which is defined in 34 CFR §200.19(b)(1)(i)(A) as “the number of students who graduate in four years *with a regular high school diploma* divided by the number of students who form the adjusted cohort for that graduating class” (emphasis added). A State may also calculate one or more extended-year graduation rates to capture students who may take longer than four years to graduate with a regular high school diploma. Both the four-year rate and any extended-year rates, however, count only students who have graduated with a regular high school diploma, which is defined in 34 CFR §200.19(b)(1)(iv) as the “standard high school diploma that is awarded to students in the State and that is fully aligned with the State’s academic content standards or a higher diploma and does not include a GED credential, certificate of attendance, or any alternative award.” We believe that it is crucial to hold all students to high standards and to hold schools accountable for preparing students for postsecondary instruction and the workforce. Similarly, the OMB-approved information collection form, used for collecting data required under section 618 of the Individuals with Disabilities Education Act (IDEA), includes the following definition in the instructions for completing the “exiting” form (which reports children who have exited the special education system during the reporting year): “Graduated with regular high school diploma. Total who exited an educational program through receipt of a high school diploma identical to that for which students without disabilities are eligible. These

are students who met the same standards for graduation as those for students without disabilities. As defined in 34 CFR §300.102(a)(3)(iv), ‘the term *regular high school diploma* does not include an alternative degree that is not fully aligned with the State’s academic standards, such as a certificate or a general educational development credential (GED).’”

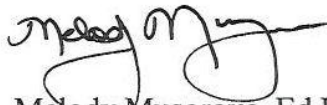
The manner in which these data are reported does not in any way diminish students’ efforts to exercise other exit options, including a Certification of Completion. The graduation rate data collected are used only for school and school district accountability and for public reporting, and are at an aggregate level that does not reveal any personally identifiable information. The data do, however, provide a meaningful indication of how effectively States are closing achievement gaps between children with and without disabilities. Section 616(a) of the IDEA emphasizes that the primary focus of Federal and State monitoring activities...shall be on improving educational results and functional outcomes for all children with disabilities and ensuring that States meet the program requirements...with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

The matter regarding students who are served by the NISEC being counted as part of the school district in which they are served rather than their schools of residence is not a matter of Federal law, but of State requirements. Several States have taken the approach that children with disabilities who attend regional programs, programs offered through intermediate units or other cooperative structures, and residential programs should be reported in the data from their districts of residence, which is generally the district in which their parents reside. Nothing in Federal law requires or prohibits this practice and it is a State matter to determine how such data are aggregated. You may wish to contact your State Department of Education to discuss the matter.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

I hope you find this information helpful. If you have additional questions, please do not hesitate to contact this office.

Sincerely,



Melody Musgrove, Ed.D.

Director

Office of Special Education Programs

cc: State Director of Special Education