



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

JUN 4, 2003

This letter is in response to your telephone call requesting a copy of the April 15, 1988 Office of Special Education Programs (OSEP) Memorandum 88-17 regarding the use of tape recorders at IEP meetings. As a member of my staff, Mr. Dale King, explained in your telephone conversation of May 2, 2003, the position expressed in Memorandum 88-17 does not reflect OSEP's current position regarding the use of audio or video tape recorders at IEP team meetings. The Department issued OSEP Memorandum 91-24 on July 18, 1991 clarifying and amending OSEP's position as expressed in Memorandum 88-17. I am enclosing a copy of Memorandum 91-24.

Moreover, Appendix A to the final regulations (see 34 CFR Part 300) implementing the Individuals with Disabilities Education Act (IDEA) states the Department's current position regarding the audio or video tape recording of IEP meetings. OSEP, in its response to question 21 under "Other Questions Regarding Implementation of IDEA" states the following:

Part B does not address the use of audio or video recording devices at IEP meetings, and no other Federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. Therefore, an SEA or public agency has the option to require, prohibit, limit, or otherwise regulate the use of recording devices at IEP meetings.

If a public agency has a policy that prohibits or limits the use of recording devices at IEP meetings, that policy must provide for exceptions if they are necessary to ensure that the parent understands the IEP or the IEP process or to implement other parental rights guaranteed under Part B. An SEA or school district that adopts a rule regulating the tape recording of IEP meetings also should ensure that it is uniformly applied.

Any recording of an IEP meeting that is maintained by the public agency is an "education record," within the meaning of the Family Educational Rights and Privacy Act ("FERPA"; 20 U.S.C. 1232g), and would, therefore, be subject to the confidentiality requirements of the regulations under both FERPA (34 CFR Part 99) and Part B (§§300.560-300.575).

Parents wishing to use audio or video recording devices at IEP meetings should consult State or local policies for further guidance.

Should you have further questions regarding this issue, please do not hesitate to contact Dale King at (202) 260-1156.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard for

Stephanie S. Lee
Director,
Office of Special Education Programs

Enclosure

cc: Dr. Jana L. Jones
State Director
Idaho State Department of Education