



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

JUL 14 2003

Dr. Richard Cohen
Executive Director
Disabilities Rights Center, Inc.
P.O. Box 3660
Concord, New Hampshire 03302-3660

Dear Dr. Cohen:

This is in response to your letter requesting clarification from the Office of Special Education Programs (OSEP) regarding the dissemination of standardized assessment results and other performance indicator data to the public. In your letter you posed several questions concerning the obligation under the Individuals with Disabilities Education Act (IDEA), or any other authority, of the New Hampshire Department of Education to disaggregate and report to the Secretary and the public assessment data and performance indicator data.

It is important to note that the IDEA and Title I of the Elementary and Secondary Education Act (Title I) both have requirements for the disaggregation and reporting of assessment and performance indicator data to the public and the Secretary. IDEA requires that States must establish State performance goals, and these goals must include the performance of students with disabilities on assessments, as well as dropout and graduation rates. Title I requires that States must have an assessment system that serves as one of the primary means for determining whether schools and districts receiving Title I funds are making adequate yearly progress (AYP) toward enabling all students in Title I schools to reach high standards. All students with disabilities in those schools must be included in the State assessment system, and the scores of students with disabilities must be included in the assessment system for purposes of public reporting and school and district accountability. Therefore, it is important that the State's obligations under both the IDEA and Title I be understood.

In your letter you identify three overriding questions regarding performance indicator data--What is the State's obligation to disaggregate all performance data? What is the State's obligation to report performance indicator data to the Secretary and the public? In what manner do assessment results and performance data have to be reported to the public? You specifically request clarification on the requirement to disaggregate and report graduation rates, dropout rates, and post-secondary success data.

The final regulations implementing the IDEA require the State to have on file with the Secretary information to demonstrate that the State has established goals for the performance of children with disabilities in the State that promote the purposes of Part B of the IDEA and are consistent, to the maximum extent appropriate, with other goals and standards for all children established by the State. The State must also establish performance indicators that the State will use to assess progress toward achieving those goals that, at a *minimum*, address the performance of children with disabilities on *assessments, dropout rates, and graduation rates*. Every two years the State must report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting its established goals. See 34 CFR

§300.137. In order to comply with the reporting requirement at 34 CFR §300.137(c), the State will have to disaggregate the data on the performance of students with disabilities within the State from the total public school population with respect to assessments, drop-out rates and graduation rates, and other performance goals for students with disabilities established by the State. Also, depending on the frequency with which assessment results in general are reported to the public, a State may need to report disaggregated performance results for students with disabilities on assessments to the public more frequently than 34 CFR §300.137 would otherwise require. 34 CFR §300.139.

The Title I regulations at 34 CFR §200.13 require the State to report information, in the aggregate, on student achievement at the State, district, and school proficiency levels. These data must also be disaggregated by racial, ethnicity, English proficiency, *disability* and economically disadvantaged status, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information (emphasis added). Also, Title I regulations at 34 CFR §200.19(d)(2) require the State to report information on any other indicators, which must include graduation rates for secondary school students, used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards disaggregated by student subgroups. Title I does not include dropout rates as an indicator. The State would be required to meet Title I requirements for dropout rates or other performance indicator data (e.g., post-secondary success data) established under 34 CFR §300.137, only if they are used by the State to determine AYP.

In your letter you also request clarification regarding the manner in which student assessment and performance indicator data are required to be reported to the public. You also indicate that the State primarily disseminates information to the public about assessment scores and other performance indicators for all children through its website. You specifically ask what is the obligation of the New Hampshire Department of Education to report to the public on graduation, dropout, and post-secondary success data, whether on its website in the same or equivalent manner as for nondisabled students or in some other fashion.

The Part B regulations at 34 CFR §300.139 require the State to make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the number of children with disabilities participating in regular assessments and in alternate assessments if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children. The regulations implementing the IDEA do not require that graduation rate, dropout rates, or other performance indicator data (i.e., post-secondary-success) be reported with the same frequency and in the same detail as the State reports such data for nondisabled children. IDEA does not address the way in which other data required by 34 CFR §300.137 are reported to the public.

Title I requires that, when the LEA publicly disseminates information through its annual report card, the information be disseminated in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand. The LEA also is required to make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies. Section 1111(h). If the State chooses its website as the means of meeting its reporting requirements under the IDEA and Title I, it must meet the requirements outlined in 34 CFR §300.139(a) of the IDEA and Section 1111(h) of Title I.

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The New Hampshire Department of Education (NHDOE) has been awarded a State Improvement Grant as well as a General Enhancement Grant, both of which address the improvement of the State's data collection system. We encourage you to continue your collaborative efforts with the NHDOE. Should you have further questions concerning data reporting in the State of New Hampshire, the following individual should be contacted:

Mr. Ralph Tilton
Education Consultant
New Hampshire Department of Education
101 Pleasant Street
Concord, NH 03301-3860
(603) 271-3741
rtilton@ed.state.nh.us

If this office can be of further assistance, please do not hesitate to contact Dale King at (202) 260-1156, or Rex Shipp at (202) 401-4061.

Sincerely,



for Stephanie S. Lee
Director
Office of Special Education Programs

cc: Dr. Mary J. Ford
New Hampshire Director of Special Education