



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

FEB-4 2000

[REDACTED]

Dear [REDACTED]

Thank you for your letter dated November 1, 1999 to Assistant Secretary Judith Heumann regarding your State rules governing the inclusion of special education students in New Jersey in the regular standardized testing program. You state that, "these same students are being coded out of local district totals" and ask whether such exclusion constitutes discrimination.

As you may know, this Office, the Office of Special Education Programs (OSEP), administers the Individuals with Disabilities Education Act (IDEA). Your letter does not provide OSEP with sufficient information to ascertain whether, under the circumstances presented by your inquiry, a violation of Part B of IDEA (Part B) has occurred.

However, we enclose for your review a copy of the Part B regulations that govern the participation of students with disabilities in State and district-wide assessments and the reporting of the performance of disabled students on these assessments. See: 34 CFR §§ 300.138-300.139. One purpose of these regulations is to ensure that students with disabilities are fully included in the accountability benefits of State and district-wide assessments. Thus, when a State reports data about general State or district-wide assessments at the district or school level for nondisabled students, it must also do the same for children with disabilities. See: 64 Fed. Reg. 12564 (Mar. 12, 1999) (copy enclosed).

If, upon reviewing the enclosed regulations, you have further questions about reporting requirements for the participation of students with disabilities in State and district-wide assessments by school districts in your State, you should contact the New Jersey State Department of Education (NJSDE) for more information. Their address is below.

Should you have further concerns about the State assessment and reporting practices, you may file a State complaint under the Part B State complaint procedures found in the regulations at 34 CFR §§300.660-300.662 of the enclosed Part B regulations. These regulations require each State educational agency, including NJSDE, to develop procedures for receiving and resolving any signed written complaint that alleges that a public agency has violated a requirement of IDEA, Part B. The NJSDE contact, for information and complaints is:

Ms. Barbara Gantwerk
Director
Office of Special Education Programs
New Jersey State Department of Education
CN 500
Trenton, NJ 08625-0001
Telephone: (609) 633-6833

We hope that you find the enclosed information helpful. If you would like to speak with an OSEP staff member, you may call OSEP at (202) 205-5507 to speak with either Rhonda Weiss, a policy analyst in OSEP, or Maral Taylor, the New Jersey Part B State contact in the Monitoring and State Improvement Planning Division.

Sincerely,

Kenneth R Warlick
Director
Office of Special Education
Programs

Enclosures

cc: Barbara Gantwerk,
New Jersey State Department of Education