



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

FEB. 2 1998

Ms. Patti J. Muhlenkamp  
Wyoming Department of Education  
Hathaway Building, Second Floor  
2300 Capitol Avenue  
Cheyenne, Wyoming 82002-0050

Dear Ms. Muhlenkamp:

This is in response to your letter dated January 29, 1998, in which you request clarification from the Office of Special Education Programs (OSEP) regarding the role of students with disabilities in Statewide accountability systems. We appreciate the opportunity to clarify the requirements of the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97) that are pertinent to your inquiry.

This clarification is being requested as a result of a recent proposal by the Wyoming State Legislature Joint Appropriations Committee to "cut the proposed budget for the design and implementation of a Statewide accountability system from 3.4 million to .4 million."

IDEA '97, signed into law by President Clinton on June 4, 1997, had overwhelming support from both houses of Congress. The major premises of this new legislation are that students with disabilities must be held to high standards and must be part of education reform along with all other students. IDEA '97 addresses the inclusion of students with disabilities in State and district-wide assessments at §612(a)(17) (copy enclosed). This provision adds to the eligibility requirements for a State's receipt of funds under Part B of IDEA (Part B) a new requirement that States have policies and procedures for ensuring that students with disabilities are included in State and district-wide assessments, with appropriate accommodations where necessary, and must report on the performance of students with disabilities in these assessments. In addition, as a part of these policies and procedures, the State educational agency also must develop guidelines for the participation of students with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs, and such alternate assessments also must be developed and conducted not later than July 1, 2000. Local educational agencies must adopt consistent policies and procedures. OSEP has issued Wyoming's FY 1997 Part B grant award based on Wyoming's written assurance, made by letter of July 7, 1997, that throughout the period of the grant award, all public agencies in Wyoming will comply with all of the requirements of Parts A and B of the IDEA, as amended by IDA '97.


This written assurance encompasses the eligibility requirements in §612 that took affect on June 4, 1997, which would include §612(a)(17).

On September 29, 1997, Judith E. Heumann and Norma V. Cantu, Assistant Secretaries for the Offices of Special Education and Rehabilitative Services and Civil Rights, respectively, issued a Dear Colleague letter underscoring the importance of including students with disabilities in all educational reform activities, and, in particular, in Statewide assessment systems (copy enclosed). On October 22, 1997, the Department published in the Federal Register at 62 Fed. Reg. 55026 a Notice of Proposed RuleMaking (NPRM) implementing IDEA '97. The proposed regulations governing the participation of students with disabilities in assessments and reports relating to assessments are found at proposed §§300.138 and 300.139 on pp. 55077-55078 of the October 22, 1997 Federal Register (copy enclosed).

Based on the foregoing requirements, Wyoming's assessment system, including any district-wide assessments that are conducted, must include students with disabilities as addressed in §612(a)(17) of IDEA '97. Wyoming's failure to comply with §612(a)(17) of IDEA '97, or sany other requirements of §612 of IDEA '97, could jeopardize Wyoming's continued receipt of funds for the education of students with disabilities under Part B of IDEA. In addition, since inclusion of students with disabilities in State and district-wide assessments, with appropriate accommodations where necessary, also is a requirement of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, Wyoming's failures to comply with the requirements of Part B of IDEA, Section 504, and Title II of the ADA, could jeopardize Wyoming's continued receipt of all Federal education funds.

We hope that you find this explanation of the applicable requirements of IDEA '97 helpful.

Sincerely,



Thomas Hehir  
Director  
Office of Special Education  
programs

Enclosures