



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

September 2, 2005

Troy R. Justensen
U.S. Department of Education
400 Maryland Avenue SW
Potomac Center Plaza, room 5126
Washington, DC 20202-2641

Dear Dr. Justesen:

On behalf of the undersigned members of the Consortium for Citizens with Disabilities Education Task Force, we appreciate the opportunity to submit comments on the proposed regulations to the 2004 Amendments to the Individuals with Disabilities Education Act.

The Consortium for Citizens with Disabilities is a coalition of approximately 100 national disability organizations working together to advocate for national public policy that ensures the self determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

The Department of Education identified a number of factors it used to guide its drafting of the proposed regulations to the Individuals with Disabilities Education Improvement Act of 2004. In addition to those factors, CCD's Education Task Force used an additional set of factors to help guide our response.

First and foremost, the regulations must support the purposes established in Act. They are

1. to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for future education, employment and independent living, to ensure that the rights of children with disabilities and parents of such children are protected and to assist states, localities, education service agencies and Federal agencies to provide for the education of all children with disabilities;
2. to assist states in the implementation of the early intervention system;
3. to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities and
4. to assess, and ensure the effectiveness of efforts to educate students with disabilities.

Second, the regulations must not weaken protections currently available to students with disabilities and their families. For example, the current regulations detail what constitutes “reasonable measures” that a local school district must take in order to secure parental consent for an initial evaluation. Today, local school districts must provide detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any response received and detailed records of visits made to the parents home or place of employment and the results of those visits. The proposed regulations remove the specific steps the agency must document as a means to reduce regulatory burden. As a result, a school district could make several calls during business hours to a parent who works during school hours and has no answering machine. When the parents do not respond, the district has no further child find obligation. In this instance, the proposed regulation would seriously undermine and jeopardize parental participation in IDEA and potentially lead to a loss of eligibility and necessary services to students. Children with disabilities who are eligible for special education and related services must be identified at the earliest possible stage. Child find is among the most important responsibilities IDEA places on local school districts. This responsibility and all other protections must be maintained fully and uniformly.

Third, the regulations must not reduce the quality of education available to students with disabilities. For example, the proposed regulations state in section 300.18(g) that the requirements of highly qualified teachers do not apply to private school teachers, even those who teach in private schools where the public agency places children with disabilities. Children with disabilities whose education is guaranteed by IDEA have the right to a qualified teacher.

Fourth, the regulations must not undermine the statutory requirements. For example, the statute’s deadline for implementation of the highly qualified teacher requirement is very clear. The proposed regulations allow an individual who is participating in an alternate route to certification program to be considered a highly qualified special education teacher for three years. This regulation creates a lower standard than what is found in the statute.

Fifth, the regulations must include fully all the statutory language from all laws referenced. Parents and school personnel should not have to seek out a copy of the McKinney Vento Homeless Assistance Act, the Assistive Technology Act, the Elementary and Secondary Education Act, the Controlled Substances Act, and title 18 of the United States Code in order to fully understand their roles and responsibilities under the 2004 IDEA Amendments.

CCD remains very concerned about the Department of Education’s policy that would allow up to 2 percent of all students to be measured against a modified achievement standard. In several instances, some elements of the proposed regulations include provisions that could affect this policy. We continue to wait for a formal response to our letter to Secretary Spellings from May of 2005.

Finally, this year marks the 30th anniversary of the enactment of Public Law 94-142, a law that opened the school house doors for millions of students with disabilities who had been formally excluded from public education. The Department should do everything in its power to ensure that the final regulations do nothing to discourage or disallow states from implementing policies that exceed the requirements of IDEA 2004 when they are intended to improve educational outcomes for students with disabilities. The 2004 amendment should be viewed as a floor, not a ceiling.

Thank you for considering our views.

Alexander Graham Bell Association for the Deaf and Hard of Hearing
American Academy of Child and Adolescent Psychiatry
American Association on Mental Retardation
American Foundation for the Blind
American Music Therapy Association
American Occupational Therapy Association
American Society for Deaf Children
American Speech-Language-Hearing Association
Association of University Centers on Disabilities
Bazelon Center for Mental Health Law
Children and Adults with Attention Deficit/Hyperactivity Disorders
Conference of Educational Administrators of Schools and Programs for the Deaf
Council for Learning Disabilities
Council of Parent Advocates and Attorneys
Disability Rights Education and Defense Fund
Easter Seals
Federation of Families for Children's Mental Health
Helen Keller National Center
Higher Education Consortium for Special Education
Learning Disabilities Association of America
National Alliance for the Mentally Ill
National Center for Learning Disabilities
National Coalition on Deaf-Blindness
National Disability Rights Network
National Down Syndrome Congress
National Down Syndrome Society
National Mental Health Association
School Social Work Association of America
TASH
Teacher Education Division of the Council for Exceptional Children
The Arc of the United States
United Cerebral Palsy