

To: Hilary Malawer,
Assistant General Counsel, Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue SW., Room 6E231
Washington, DC 20202

RE: Docket ID: ED-2017-OS-0074: Evaluation of Existing Regulations

Dear Ms. Malawer:

I am a parent, former teacher, and current tutor of students with learning challenges. I wish to respond to the U.S. Department of Education's request for public comment on regulations that may be appropriate for repeal, replacement, or modification as directed by Executive Order 13777 and as part of the "Enforcing the Regulatory Reform Agenda" led by the Administration.

The test of any regulation, guidance, technical assistance and/or other administrative activity must be *whether that guidance or regulation increases educational equity and serves the interests of all students*.

DO NOT DISREGARD OUR STUDENTS in an effort to reduce a "burden" burden on the entities affected by Federal regulations.

ON behalf of children with disabilities, particularly the nearly 20% of our student population who have learning disabilities, and others with severely-impacting disorders such as ADHD, trauma from abuse or other event, PLEASE:

1. Maintain all Federal Regulations pertaining to all education laws.

In particular, I and the children I serve are most affected by needing to MAINTAIN all regulation, joint regulation and guidance related to the following laws:

The Civil Rights Act of 1964
The Rehabilitation Act of 1973 (Particularly Section 504)
The Individuals with Disabilities Education Act (IDEA)
The Americans with Disabilities Act (ADA)
Freedom of Information Act (FOIA)
Family Educational Rights and Privacy Act (FERPA)

As this relates to IDEA in particular, 20 U.S.C. Sec. 1232 states: "The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act which would procedurally or substantively lessen the protections provided to handicapped children under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at Individualized Education Program meetings, or qualifications of personnel), except to the extent that such

regulation reflects the clear and unequivocal intent of the Congress in legislation.” I urge ED to maintain all IDEA regulations and guidance.

2. **Maintain all guidance pertaining to all education and civil rights laws.**
3. **Maintain the majority of ED Memos and Dear Colleague Letters.**
4. **Rescind a select few Dear Colleague Letters (DCL) that actually run counter to the IDEA and impede a parent’s right to be equal partners with the school system under the IDEA.**

The letters to rescind are:

Parent’s right to include/invite participants to IEP meetings:

Letter to Anonymous (2003)

Letter to Byrd (2003)

Rationale: These letters must be rescinded. IDEA, 20 U.S.C. § 1414(d)(1)(B)(vi) and the regulations, 30 C.F.R. § 300.321(a)(6) and (c) allows parents and school district—at their discretion—to include on the IEP team individuals with knowledge or special expertise about the child **and upholds a parent's right to invite related services professionals and other IEP team members to IEP meetings.**

Parent(s) and expert(s) right to observe [the child] in the classroom

Letter to Mamas (2004)

Rationale: **This letter must be rescinded.** As stated above, Congress has repeatedly found that "the education of children with disabilities can be made more effective by ... strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.” §601(C)(5). To meaningfully participate parents and the experts they choose to work with/support their child often need to observe the child in the classroom. To fully participate as members of the IEP team, they should have the right to observe the child's education in progress, a proposed placement, whether accommodations and services are being provided, and other matters.

Independent Education Evaluations (IEE): The right of the family to include recommendations [to the IEP team] from the evaluator.

Letter to LaDolce (2007)

Rationale: This letter should be rescinded because IDEA 34 C.F.R. 300.503(c) requires IEP teams to consider parentally obtained independent education evaluations (IEE). While the agency [state/district] may place restrictions on the criteria for the evaluation (34 C.F.R §300.502(a)(2)), the findings and recommendations of the IEE are integral to making final decisions about the child's IEP.

The right to an IEE is a fundamental right which the school often attempt to thwart and fight the parents on. Our students need each and every protection we can get to hold our school accountable to get an appropriate evaluation when we do not agree with the school's evaluation.

Failure to consent to IEP under IDEA should not impact eligibility for Section 504

Letter to McKethan, 25 IDELR 295, 296 (OCR 1996)

Rationale: This letter should be reversed because when parents reject the IEP developed under the IDEA, they "would essentially be rejecting what would be offered under Section 504. The parent could not compel the district to develop an IEP under Section 504 as that effectively happened when the school followed IDEA requirements." This reasoning runs contrary to the intent of Section 504 protections.

MAINTAIN RECENT GUIDANCE TO SCHOOLS REGARDING DYSLEXIA.

<https://www2.ed.gov/policy/speced/guid/idea/memosdcrltrs/guidance-on-dyslexia-10-2015.pdf>

Rationale: Too many schools believe dyslexia does not exist and those students with its symptoms are merely lazy. They refuse to acknowledge the needs of this population of intelligent, disabled students, prohibiting them from reaching their potential.

MAINTAIN RECENT GUIDANCE TO SCHOOLS REGARDING ADHD.

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>

IN closing, I want to state my frustration that there are WAY TOO MANY guidance letters and regulations to comment on each and every one, and its particular significance of importance, even CRITICAL need to maintain such guidance so schools are held accountable and follow the laws for our students with learning challenges. There is simply not enough time in the day.

THEREFORE, I make a special request that BEFORE THE USDOE takes action to make a significant change or rescinding regarding ANY guidance or regulation which impacts students

with disabilities, that the Department would specifically **put such guidance, or regulation up for comment. Only then, can we, as concerned citizens, have any type of FAIR and MEANINGFUL opportunity to comment. It is impossible to predict which regulations, guidance, or policies your Department might deem as unnecessary (and needing removal) or outdated (and needing revision). We need to know which specific ones are in jeopardy so we can have an opportunity to voice our concerns.**

Thank you for this opportunity to comment,

Susan Farmer
Salem, OR 97306
503-585-9407