




# STATE OF CONNECTICUT

DEPARTMENT OF EDUCATION



**TO:** Directors of Special Education and Pupil Services  
Directors of Private Approved Special Education Facilities  
Directors of Charter Schools

**FROM:** George P. Dowaliby  Chief  
Bureau of Special Education and Pupil Services

**DATE:** April 12, 1999

**SUBJECT:** *Update #16*

Spring is here, the UCONN Huskies are Champs, and I'm sure all of you are swamped with PPTs. Hopefully you can find a few moments to review the information and materials in this *Update*. Though I'm aware that everyone's calendars are full, there are a couple of training activities that you should anticipate. One is a workshop regarding the new Medicaid program scheduled to be in effect for July 1<sup>st</sup>. The other activity, co-sponsored by CONNCASE, the Bureau of Special Education and Pupil Services and SERC, will be an overview of the recently released IDEA regulations. Dates for either of these activities have not been finalized, but I expect both will occur in the first few weeks of June. Information will be out shortly.

## **DRAFT LD GUIDELINES**

We have appreciated your enthusiastic response to the guidelines, as well as your constructive suggestions. As we stated at the CONNCASE Leadership Forum, the titles for the worksheets were taken from the legislation. We belatedly realized that the titles "Lack of Appropriate Instruction in Reading" and "Lack of Appropriate Instruction in Math" are not teacher friendly. As such, please change the titles to "Reading Worksheet" and "Math Worksheet" before printing for use within your district.

If you are using the overheads we distributed for your district training, please note the following errors:

- There must be evidence that the student does not achieve commensurate with his or her age **AND** (not **or**) ability level.....(also on p. 19 of guidelines).
- The date on the quote from the Committee on Labor and Human Resources should be 1997 (not 1977).

It has also come to our attention that the printer omitted page 22 from the unbound copy that was sent to you. Please copy page 22 from your bound copy and add it to your unbound copy before you distribute it to your staff. We apologize for any inconvenience the error may have caused you.

Please contact Anne Louise Thompson at (860) 807- 2030 or Nancy Stark at (860) 807-2021 for other comments and/or suggestions for additional regional training needs.

## **STUDENT RECORDS**

### **A. Release of student records to probation officers pursuant to Section 46b-134**

We received a recent inquiry regarding the release of information from a student's educational record. Specifically, there appears to be some confusion regarding the obligation of school districts to release information from a student's confidential education record in response to a request made pursuant to Section 46b-134, Investigation by probation officer prior to disposition of delinquency case. Please be advised of the following.

As you are aware, public school districts are required to adhere to the requirements of the Family Educational Rights and Privacy Act (FERPA), a federal law which establishes a series of protections to safeguard the vast amounts of student information collected by school districts. An essential element of FERPA is that no information from a student's record may be released without the district first securing written parental consent to do so. There are a series of exceptions to this general rule that give school districts the discretion to release information from a student's file without first securing written parental consent.

The most recent FERPA amendments (December 23, 1996) give school districts the discretion to release information without written parental consent pursuant to state statutes adopted after November 19, 1974 under very specific circumstances. 34 Code of Federal Regulations Section 99.38 states in pertinent part that if the "reporting or disclosure allowed by the State statutes concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released", then a disclosure may be made without first securing parental consent. This particular section goes on to state that "the officials and authorities to whom the records are disclosed shall certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student."

At least one Juvenile Court Judge has issued a "standing order" regarding access to educational records by probation officers. This order may fall into one of the other exceptions to the parental consent rule found in FERPA. If we were to look at the Judge's order as a judicial order that records needed to be released, it could be argued that release of information would fall under the exception that has been created for compliance with a judicial order or lawfully issued subpoena. The particular section states the following in pertinent part:

Section 99.31(a)(9): (i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with-

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

The release of information to probation officers under the provisions of Section 47b-134 could come under either one of these exceptions as described above. While many districts include the exception regarding release of records pursuant to a judicial order or subpoena, few have added the juvenile justice exception. We would encourage districts to add the juvenile justice exception to your records policy.

#### **B. Obliteration of original name on institutional records, new name substituted**

Over the years, the department has received many inquiries regarding the removal of a child's original family name from school records and the substitution of the new family name. The department believed that obliterating the original family name was equivalent to destroying a public record and was not permissible. In addition, the department believed that one needed to cross-reference the old and new name for record keeping purposes.

Recently, the department became aware of Section 45a-737 of the Connecticut General Statutes. It states the following:

Sec. 45a-737. (Formerly Sec. 45-66b). Obliteration of original name on institutional records, new name substituted. Upon the request of an adopting parent of a child adopted under the provisions of section 45a-727, any public or quasi-public institution, including but not limited to schools and hospitals, shall obliterate the original family name of an adopted child and substitute the new name of the child on its records; except that the person in charge of the records may apply to the court of probate having jurisdiction over the adoption and show cause why the name shall not be substituted. The court may grant or deny the order for the substitution of names as it deems to be in the best interest of the child.

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Please note that if requested by the adopting parent of a child, the school records must be changed as described above. No cross-referencing is necessary. Please contact Terri DeFrancis at (860) 807-2018, if you have any questions.

**PRIMARY MENTAL HEALTH PROGRAM (PMHP)**  
**REQUEST FOR PROPOSALS BIDDERS CONFERENCE**

The Request for Proposals (RFP) for the PMHP was mailed to all public school superintendents on March 8, 1999. As was stated in the RFP, proposals are due on May 7, 1999. A bidders' conference is scheduled to be held on Tuesday, April 13, 1999, 11:00 a.m. – 1:00 p.m. Please contact Dr. Norma Sproul at (860) 807-2037, if you have any questions regarding this RFP.

**SURROGATE PARENT APPOINTMENTS**

The process which school district staff must follow to obtain the appointment of surrogate parents for eligible students has been simplified. If an eligible student does not have a surrogate parent, *school district staff no longer must complete a "Request for Surrogate Parent" form.* Instead, the request can be made by calling the SDE Surrogate parent Appointments office at (860) 807-2022 and supplying the relevant information. However, if school district staff prefer to make the request via a form, that option remains. (The most recent version of the "Request for Surrogate Parent" form is enclosed.)

For students who require a surrogate parent because the student is committed to the guardianship of the Commissioner of DCF or because the Commissioner of DCF is the student's statutory parent, a DCF-603 form must be forwarded to our office as documentation of the student's legal status or we must receive a telephone call from the child's DCF case worker attesting to the child's legal status. *There is no longer a need for school district staff to submit a separate "Certificate of Child Status" form.*

In the event that a student who has a surrogate parent enters the jurisdiction of a new school district, there is no need to forward a "Request for Surrogate Parent" form to SDE. Information related to a change in the student's residence or jurisdictional status may be provided by calling (860) 807-2022. Our staff will make a new appointment of a surrogate parent, if appropriate, and will identify the individual who is authorized to serve as the student's surrogate parent.

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In situations in which a school district is scheduling a PPT meeting for a student who is eligible for a surrogate parent and for whom school district staff have not received a surrogate parent appointment letter from SDE, school district staff should call (860) 807-2022 to obtain the name of the surrogate parent who must be invited to the PPT meeting. In many cases, that individual may be someone other than a contracted surrogate parent who is assigned to the territory served by the school district.

Also enclosed with this Update is the most recent list of individuals with whom SDE has contracted to serve as surrogate parents.

Please contact Art Carey at (860) 870-2032 if you have any questions or comments regarding the SDE Surrogate Parent Appointments System.

#### **INFORMATION FY 1999-2000 CONSOLIDATED GRANT APPLICATION**

There will be a Consolidated Grant Application process for the FY 1999-2000 year. The ESEA I, ESEA II, ESEA IV, ESEA VI, Migrant, Perkins, IDEA-Part B, Section 611 and IDEA-Part B, Section 619 grant applications will be consolidated into one application format. The timelines for the Consolidated Grant applications are as follows:

- A state-wide meeting was held in Waterbury on March 29<sup>th</sup>. One purpose for that meeting was to provide districts information on how to complete the FY 1999-2000 version of the Consolidated Grant Application. Districts that attended picked up their application packets at that meeting. Application packets will be mailed to districts that did not attend the March 29<sup>th</sup> meeting.
- Completed preliminary applications will be due at the Division of School Improvement on May 21<sup>st</sup>.
- Approximately 40 CTSDE readers will review applications and will contact district personnel, when necessary, to clarify application details.
- Preliminary grant award letters and their corollary budgets will be mailed to districts by July 1, 1999. All grant awards will be forwarded to districts in one mailing.

To get started with your FY 1999-2000 IDEA-Part B grants:

- Use \$500/child times your 3-21 PCI child count taken on December 1, 1998 to estimate your IDEA-Part B, Section 611 entitlement for FY 1999-2000.
- Use the Section 619 (preschool) amount received in FY 1998-1999 to plan and submit your FY 1999-2000 preschool (IDEA-Part B, Section 619) grant.

Some Guidelines:

- Key-The provision of "Direct Services" to eligible students - per IDEA directive
- Maximum percent of the grant available for administrative use is 10%
- Equipment – limit to instructional items and/or to items of assistive technology. You will need to identify all equipment in the application "Narrative," including name, cost and purpose of equipment.
- Again, in FY 1999-2000, three program options are available to your district in both Section 611 and Section 619 grants. These three options are: (1) school-wide program, (2) school-based improvement plan and/or (3) integrated and coordinated service delivery system.
- A proportional expenditure of IDEA-Part B funding (Section 611 and Section 619) must be made for the benefit of eligible nonpublic school children placed in nonpublic schools by their parents. If a district has no children parentally placed in nonpublic schools, they should not allocate any IDEA-Part B funding in their Section 611 or Section 619 budgets.
- Only districts that have an approved "Indirect Rate" may add a cost for "Indirect Costs" to their FY 1999-2000 IDEA-Part B budgets.
- For the first time, in FY 1999-2000, Maintenance of Fiscal Effort calculations will be made for each district by the Division of Grants Management. All districts must demonstrate Maintenance of Fiscal Effort to remain eligible for receipt of an IDEA-Part B entitlement grant (Section 611 and/or Section 619). Districts not meeting their Maintenance of Fiscal Effort will be contacted by Patrick Shaughnessy, IDEA-Part B, Section 611 Program Manager.

**DEADLINE; MAKING AMENDMENTS TO YOUR FY 1998-2000 BUDGETS**

**May 1, 1999** is the deadline for making amendments to your FY 1998-2000 budgets. Amendments should be forwarded to the appropriate Program Manager.

## **FINAL IDEA-PART B REGULATIONS**

Final IDEA-Part B Regulations came out on Friday, March 12, 1999. The bureau has one downloaded copy for reference. Final regulations can be downloaded from the LRP net for free. The download represents a large volume of paper. Before going to the LRP web site at [www.lrp.com](http://www.lrp.com), be sure your PC has the Adobe Acrobat Reader. You will need Acrobat Reader to download the regulations from the LRP web site. Acrobat Reader can be downloaded from the State Department of Education web site located at <http://www/state.us.ct.us/sde/>. Final regulations will also be printed in the Federal Register.

## **REQUESTING GRANT FUNDING FROM THE DEPARTMENT**

Each month, each district receives a printout (ED-111 form) which itemizes the amount the district receives from each of the special grants it receives during the year. Monthly, each district is to indicate, next to each approved amount for each approved grant amount, the amount of that particular grant funding it will need – for the next month's expenses.

Two cautions:

- Be sure to request funding each month so funding is available to your district to meet program expenses; and
- Only request that amount necessary to meet the subsequent month's anticipated expenses. If a district requests a disproportionate level of funding, that request needs to be investigated and tends to "hold up" the distribution of funds to all districts.

## **SLIVER GRANTS FY 1999-2000**

Under the IDEA-97, Section 611(f)(4)(A), the department is mandated to distribute Sliver Grants to LEAs. Sliver Grants are discretionary grants and therefore, not part of mandated entitlements received by eligible districts/agencies. This year the department opted to distribute Sliver Grants to all districts/agencies based on their relative child counts. A total of \$1,745,173 is being distributed during the current year. Next year, the available amount of Sliver Grant funding is expected to drop drastically. This drop is anticipated because the driving factor determining the amount of Sliver Grant funding is the total percent increase in the state's IDEA grant from year to year. Last year, the increase in the state grant was approximately 20% while next year's state IDEA grant will increase by less than 10%. The department will not know the level of Sliver Grant funding available for FY 1999-2000 until some time in July when it will be notified by the Office of Special Education Programs. Therefore, no firm plans for use or distribution of Sliver Grants for FY 1999-2000 can be made at this time.

### **DEFINITION OF DEVELOPMENTAL DELAY**

During the 1998 session of the Connecticut legislature, Section 10-76 (a) was amended. The definition for "*children requiring special education*" now includes: "**children ages three through five inclusive who are experiencing developmental delay that causes such child to require special education. Developmental delay means a significant delay in one or more of the following areas: (a) physical development, (b) communication development, (c) cognition development, (d) social emotional development, and/or (e) adaptive development as measured by appropriate diagnostic instruments and procedures as demonstrated by scores obtained on an appropriate norm-referenced standardized diagnostic instrument.**" Please be advised that the term "*developmental delay*" has replaced the state's definition of "*preschool children requiring special education*" (uncategorized). In determining a 3-5 year-old child's eligibility for special education, school districts may use the disability category of "*developmental delay*" or any one of the other IDEA disability categories. As a result of an evaluation, the child must be experiencing a developmental delay or a disability and it must also be determined that the child needs special education and related services in order for the child to be eligible for such services.

The State Department of Education is currently drafting regulations for a criterion by which to determine a "*significant developmental delay*". The proposed language currently reads that: "**such significant development delay(s) is/are demonstrated with scores obtained on an appropriate norm-referenced standardized instrument to substantiate and document: (i) a 2.0 standard deviation below the mean in one area of development, or (ii) a 1.5 standard deviation below the mean in two or more areas of development. Other procedures, including but not limited to the use of the informed clinical opinion of a multidisciplinary team, with written documentation, may be used when a standardized diagnostic instrument is not appropriate and/or when a child requires significant adaptation to perform on a standardized instrument.**" School districts should be aligning their policies and practices to accommodate the disability definition of "*developmental delay*" and the proposed criterion.

The State Department of Education's PC-ISIS staff are in the process of revising the disability categories to replace the term uncategorized with developmental delay.

### **LISTING YOUR POSITION VACANCIES FOR SPEECH AND LANGUAGE PATHOLOGIST**

The Bureau of Special Education and Pupil Services, through Carolyn Isakson, Consultant for Speech and Language Services, is continuing its collaboration with the Connecticut Speech-Language-Hearing Association (CSHA) to assist school districts in securing qualified staff for speech and language programs.



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CSHA will be holding its spring conference on May 14, 1999. If you have or anticipate having a vacancy for a speech and language pathologist and would like CSHA's assistance in advertising it at the conference, please complete the attached form and **return it to the CSHA office by May 3<sup>rd</sup>**. CSHA's Career Information Committee maintains a booth in the exhibit area during the conference and provides candidates seeking employment with a current list of job vacancies.

The CSHA office maintains an ongoing listing of position vacancies and candidates seeking employment. The office also has a "**JOB HOTLINE**", which is updated on a daily basis. Feel free to copy the CSHA form and use it whenever you have a vacancy that you would like to have listed. You may also request CSHA's candidate list as necessary. Please notify the CSHA office as soon as your position is filled, so that the job listings can be kept current.

For further assistance, you may call Maria Parker at the CSHA office at (860) 666-6900.

#### **LEAST RESTRICTIVE ENVIRONMENT (DCF RESIDENTIAL PLACEMENTS)**

The revised IDEA regulations clarify that the State Department of Education (SDE) must ensure that children who are placed in public or private institutions are educated in the least restrictive environment. For children who have been placed by the Department of Children and Families (DCF) in residential facilities, the Commissioners of DCF and SDE have issued a memorandum, dated March 15, 1993, which delineates procedures designed to ensure that such children receive services in the least restrictive environment. A key component of these procedures is the determination, by a Placement Review Team convened by DCF within thirty days of a child's placement in a residential facility, of treatment boundaries within which the child must receive educational services.

Recently, our Department has provided a number of informal responses to inquiries with regard to these procedures. Here is a summary of our responses.

In addition to the required DCF staff, a representative of each of the following agencies must be invited to each Placement Review Team meeting: the residential facility in which the child is placed, the school district which is responsible for the child's educational services, and the school district which provides educational services to children who reside in the town in which the facility is located and who are the same age as the child. In the event that one or more of these representatives disagree with the consensus determination of the Placement Review Team, the determination nevertheless is considered to be valid and reflective of the child's current treatment boundaries. Although each of the agencies listed above may subsequently request an independent review of that treatment boundaries determination, the current determination remains in effect until such time as the child's treatment boundaries are revised pursuant to a review.

In the event that one or more of the invited agencies do not participate in the meeting, the determination of the team is still considered to be valid and in effect. Each of the agencies which was invited, or which should have been invited, to the meeting may request an independent review of the Placement Review Team determination, regardless of whether the agency participated in the meeting.

A child must receive any required educational services, funded by the child's responsible school district, within the residential facility for the initial thirty calendar days of the child's placement in the facility or until the Placement Review Team expands the treatment boundaries of the child's placement prior to the end of that thirty day period, whichever is sooner. Upon a Placement Review Team determination that there is no need for the child to remain within the residential facility during part or all of the school day, the child should be educated, during that corresponding time, in a regular class in the appropriate public school in the town in which the residential facility is located unless the child's Planning and Placement Team has designed a more restrictive program.

If the Placement Review Team has not met within the first thirty calendar days of a child's placement in a residential facility in order to establish treatment boundaries for the child, then the child's needs evidently do not require the formal establishment of such boundaries. In other words, absent a Placement Review Team determination which indicates otherwise, after the initial thirty calendar days of a child's placement in a residential facility, there is no need for the child to remain within the facility's milieu during the school day in order to benefit from the residential placement. Under such circumstances, the child should be educated in a regular class in the appropriate public school in the town in which the residential facility is located unless the child's Planning and Placement Team has designed a more restrictive program.

In the event that, after the initial thirty calendar days of a child's placement in a private residential facility, there is no valid determination that the child must remain within the residential facility during the school day, the child's responsible school district has no obligation to make payment to the private facility for the provision of educational services beyond those thirty days. Rather, the school district is obligated to make arrangements for the provision of appropriate educational services to the child.

Please contact Art Carey at (860) 807-2032 if you need further clarification regarding this matter or if you have any additional questions.

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**ENCLOSURES INCLUDE**

- *1997-1998 Special Education in Connecticut Report*
- *USDE Letter regarding Participation in Special Studies as a Part of the Individuals with Disabilities Education Act Amendments of 1997 National Assessment*
- *Final IDEA Regulations Change the Face of Special Education Report*

cc: Theodore S. Sergi, Commissioner of Education  
George A. Coleman, Associate Commissioner of Education  
Edward Preneta, Council on Developmental Disabilities  
Bonnie Moran, Special Education Advisory Council  
Nancy Prescott, CT Advocacy Center  
Superintendents of Schools  
Hearing Officers  
SDE Staff