

United States Department of Education
Notice of Public Hearing
July 16, 2014
1:00 pm-3:00 pm and 6:00 pm-8:00 pm
New York State Education Department
Office of Professional Discipline
1411 Broadway
Regents Room 10th Floor
New York, New York

On Wednesday, July 16, 2014, the United States Department of Education (the Department) will conduct public hearings, pursuant to section 457 of the General Education Provisions Act (GEPA), 20 U.S.C. § 1234f to determine whether it should enter into a Compliance Agreement with the New York State Education Department (NYSED). Written public comments on this issue will also be accepted through July 26, 2014. NYSED has requested that the Department allow NYSED to enter into a Compliance Agreement to resolve its noncompliance with a specific requirement under Part B of the Individuals with Disabilities Education Act (IDEA). Since April 2012, NYSED has not been in compliance with the IDEA Part B requirement to issue within thirty (30) days, unless a party requests and is granted a specific extension, the State-level independent decision in an appeal of an impartial due process hearing officer's decision. (20 U.S.C. § 1415(g); 34 CFR §§ 300.514(b) and 300.515(b)). NYSED has stated that it is not able to correct this noncompliance within one year due to the significant and unanticipated increase in the number of appeals of due process hearing decisions under Part B of the IDEA.

In an April 9, 2014 letter, NYSED's Commissioner John B. King requested that the Department consider allowing NYSED to enter into a Compliance Agreement. Specifically, in the April 9, 2014 letter, NYSED: (1) reported that the State was not in compliance with IDEA section 615(g) and 34 C.F.R. §§ 300.514(b) and 300.515(b) since April 2012; (2) identified several reasons why the State is unable to come into compliance within one year as required in 34 C.F.R. § 300.600(e) and the Office of Special Education's (OSEP) Memorandum 09-02, issued on October 17, 2008; and (3) identified current and proposed actions to bring NYSED into compliance with the 30-day timeline requirement in IDEA section 615(g) and 34 C.F.R. §§ 300.514(b) and 300.515(b) within three years.

Under GEPA, the Department must, prior to entering into a Compliance Agreement, conduct a public hearing to obtain public comment as to whether it should enter into a Compliance Agreement. Under a Compliance Agreement, NYSED could have up to three years to come into compliance with the Part B requirement with which NYSED currently is not in compliance. During the period of the Compliance Agreement, NYSED may continue to receive funds under Part B of IDEA while it works to come into compliance with the 30-day timeline requirement in 20 U.S.C. § 1415(g) and 34 C.F.R. §§ 300.514(b) and 300.515(b).

At the July 16, 2014 public hearing, the Department will take testimony from the public and stakeholders (including parents of children with disabilities, local educational agency and school personnel, teachers, related service providers under the IDEA, the State Advisory Panel members under IDEA Part B, and others). Individuals testifying at the July 16, 2014 public hearing should limit their testimony to three (3) to five (5) minutes. The testimony must address NYSED's ability to correct the IDEA Part B requirement to issue within 30 days, unless a specific extension is requested and granted, the State-level independent

decisions in appeals of due process hearing decisions. Individuals providing testimony at the July 16, 2014 hearing or otherwise providing public comment should direct their testimony and comments to the following two questions:

- (1) Can NYSED come into compliance within one year with the IDEA Part B requirement to issue within 30 days, unless a party requests and is granted a specific extension, a State-level independent decision in an appeal of a due process hearing officer's decision (i.e., is compliance with this requirement not feasible until a future date beyond one year)?
- (2) Will NYSED, within a period of no more than three years, be able to come into compliance with this IDEA Part B requirement (30 days for a State-level independent decision), and, if so, what provisions should be included in the Compliance Agreement to ensure that compliance is achieved as quickly as possible?

Written testimony or public comments may also be **submitted until July 26, 2014 by email to: OSEPnyshedhearinginfo@ed.gov by mail (postmark by July 26, 2014)** to Jocelyn Logan-Friend, United States Department of Education, Office of Special Education Programs, Potomac Plaza, Room 4132, 550 12th Street, S.W., Washington, D.C. 20202. You will not receive acknowledgement of receipt of written testimony and your testimony will be part of the public record that may be obtained through the Freedom of Information Act as appropriate.

The hearing will be held in New York City at a location accessible to persons with disabilities. Sign language interpreters and Spanish language translators will be available. Please contact the Department or NYSED if additional specific accommodations are needed. You must have a photo ID and should arrive early to process through security. **To facilitate security processing, all individuals planning to attend must notify the Department by July 7, 2014 so that a list of attendees can be provided to Building Security.** In addition, please indicate if you plan to give testimony. Participation notification and requests for reasonable accommodations should be submitted to: Jocelyn Logan-Friend with the Department at OSEPnyshedhearinginfo@ed.gov by July 7, 2014.

In consideration of information provided through this public comment process, the Department will determine whether it is feasible for NYSED to reach compliance within one year and, based on that determination, will issue Written Findings and a Decision to that effect, which will be published in the *Federal Register* along with the substance of any Compliance Agreement.

To obtain a copy of this notice, please contact Jocelyn Logan-Friend at OSEPnyshedhearinginfo@ed.gov.