



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

APR - 2 2002

G. Emerson Dickman, Esquire
25 East Spring Valley Avenue
Maywood, New Jersey 07607

Dear Mr. Dickman:

Thank you for your letter of November 16, 2001 written on behalf of your clients in which you ask the following question under Part B of the Individuals with Disabilities Education Act (IDEA):

Do parents participating in an [Individualized Education Program] IEP meeting have the right to be informed as to the qualifications of the instructor designated to deliver the particular methodology or specifically designed instruction identified in the IEP?

Your letter stated that many teachers have not received adequate preparation to teach, for example, reading effectively, and that lack of adequate teacher preparation detrimentally affects many children with disabilities. This, in part, was the basis for your contention that it is critical that parents be informed of the qualifications of individuals providing specially designed instruction to their children under Part B. We address these two concerns, qualification of personnel and a parent's right to know the qualifications, separately below.

Regarding personnel qualification, under Part B of the Individuals with Disabilities Education Act (Part B), each State and its public agencies must ensure that a free appropriate public education (FAPE) is made available to all children with disabilities in mandatory age ranges. FAPE includes, among other matters, the provision of special education and related services that meet State education standards and Part B requirements. The IDEA requires states to have a comprehensive system of personnel development (CSPD) to "ensure that all personnel who work with children with disabilities . . . have the skills and knowledge necessary to meet the needs of children with disabilities . . ." 20 U.S.C. §§1412(a)(14) and 1453(c)(3)(D). Under the Part B regulations, "qualified personnel" are defined as those who meet SEA-approved or SEA-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education or related services. 34 CFR §300.23. Part B regulations require that personnel providing special education and related services must meet appropriate State qualification standards, and allow States the discretion, under certain circumstances, to use personnel who do not meet the highest entry-level academic degree requirements applicable to their profession or discipline. 34 CFR §300.136.

We now address your inquiry regarding a parent's right to be informed at the IEP team meeting about the qualifications of individuals providing services to a child under Part B. At the IEP meeting, the IEP team determines the special education and related services the child needs and develops the child's IEP. IDEA does not provide parents a specific right to be informed of the qualifications of individuals providing services to their children. If, however, an IEP team determines that it is necessary for the individual providing special education or related services to a child with a disability to have specific training, experience and/or knowledge in order for the child to receive FAPE, then it would be appropriate for the team to include those specifications in the child's IEP. The public agency is responsible for ensuring that the child's IEP is implemented.

You may also be interested in knowing that there are teacher qualification and parent notice provisions in the No Child Left Behind Act, (NCLB) signed into law by President Bush on January 8, 2002. NCLB §1119(a)(2) sets a goal under Title I of the Elementary and Secondary Education Act to have States ensure that all teachers teaching in core academic subjects are "highly qualified" (as defined in §9101(23)) by not later than the 2005-2006 school year. NCLB §1111(h)(6)(A) contains the following parent right to information about classroom teacher qualification:

PARENTS RIGHT-TO-KNOW.

"(A) QUALIFICATIONS.-At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

"(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

"(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

"(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

"(iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

NCLB §1111(h)(6)(A); see also, NCLB §1111(h)(6)(B)(ii).

NCLB §1111(h)(6)(A) applies only to schools that receive funds under Title I of the ESEA after July 1, 2002. Many of these schools may also serve children with disabilities under Part B of the IDEA.

I hope this information is helpful to you. If you have any questions, please do not hesitate to contact Dr. JoLeta Reynolds at (202) 205-5507.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephanie S. Lee".

Stephanie S. Lee
Director
Office of Special Education Programs

cc: Barbara Gantwerk
Director, Office of Special Education Programs
New Jersey Department of Education