



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

MAR 17 2008

Ronald Caplan
Facilitator
Howard County Public School System
10910 Route 108
Ellicott City, Maryland 21042-6198

Dear Mr. Caplan:

This is in response to your August 19, 2007 letter to the Office of Special Education Programs (OSEP), requesting clarification of 34 CFR §300.321(b)(3) of the regulations for Part B of the Individuals with Disabilities Education Act (Part B).

You ask if the intent of “must invite” in 34 CFR §300.321(b)(3) is always to invite a representative of any agency likely to be responsible for providing or paying for transition services for every student age sixteen and above or only when the IEP Team believes it is appropriate to invite the agency representative.

Under 34 CFR §300.320(b), beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the individualized education program (IEP) Team, and updated annually, thereafter, the IEP must include: (1) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. “[I]f a purpose of an IEP Team meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b),” the public agency “[t]o the extent appropriate, with the consent of the parents or a child who has reached the age of majority, . . . must invite a representative of any participating agency *that is likely to be responsible for providing or paying for transition services.*” 34 CFR §300.321(b)(1) and (3) [emphasis added]. The decision of whether it would be appropriate to invite other agencies rests with the public agency and the parents or the child who has reached the age of majority, provided that the parents or the child who has reached the age of majority consents to the invitation. If the parent or the child who has reached the age of majority refuses to consent to invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services, to a child’s IEP Team meeting where transition will be considered, conducted in accordance with 34 CFR §300.320(b), the public agency may not invite a representative of that agency to attend the child’s IEP Team meeting. See also 34 CFR §300.622(b)(2) (requiring parental consent or the consent of an eligible child who has reached the age of majority before releasing personally identifiable information to officials of participating agencies providing or paying for transition services under 34 CFR §300.321(b)(3)).

You also ask the following questions:

Must an agency representative be invited to an IEP meeting where the student’s goals may be such things as completing job applications, researching local community colleges, or obtaining in-school

jobs? And is it appropriate to get parent permission to invite such a person knowing the agency representative will not attend the meeting?

We cannot comment specifically with regard to the examples of postsecondary goals provided in your question. However, in determining whether a public agency must invite another agency to an IEP Team meeting conducted under 34 CFR §300.320(b), in general, you may wish to consider such factors as whether a purpose of the IEP Team meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals, whether there is a participating agency, other than the public agency responsible for providing a free appropriate public education to the child, that is likely to be responsible for providing or paying for the child's transition services, and whether the consent of the parents or the child who has reached the age of majority has been provided for the other agency's participation at the IEP Team meeting conducted in accordance with 34 CFR §300.320(b).

Regarding your question about whether parent permission must be obtained if it is likely that another agency representative will choose not to attend a transition IEP Team meeting, 34 CFR §300.321(b)(3), requires a public agency to obtain the consent from the child's parents or the child who has reached the age of majority before the public agency can invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services to an IEP Team meeting, if a purpose will be the consideration of the child's postsecondary goals and the transition services needed to assist the child in reaching those goals under 34 CFR §300.320(b). See also 34 CFR §300.622(b)(2). Accordingly, a public agency still must obtain the consent of the parents or the child who has reached the age of majority before inviting other agency representatives to transition IEP Team meetings conducted in accordance with 34 CFR §300.320(b) even though the public agency lacks the authority to compel the participation of other agency representatives at transition IEP Team meetings.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We hope this information is helpful. If you have further questions, please do not hesitate to contact Michael Slade, at 202-245-7527.

Sincerely,


William W. Knudsen
Acting Director
Office of Special Education
Programs

cc: Dr. Carol Ann Baglin