



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

SEP 26 2011

H. Douglas Cox
Assistant Superintendent
Special Education and Student Services
Commonwealth of Virginia
Department of Education
P.O. Box 2120
Richmond, Virginia 23218-2120

Dear Mr. Cox:

This is in response to your June 16, 2010 letter, written on behalf of the Commonwealth of Virginia Department of Education, to Patricia J. Guard, former Deputy Director of the Office of Special Education Programs (OSEP). In your letter, you seek clarification of OSEP's position on requirements for appropriate measurable postsecondary goals in individualized education programs (IEPs) under Part B of the Individuals with Disabilities Education Act (IDEA).

Your letter refers to the National Secondary Transition Technical Assistance Center (NSTTAC) guidance in the Indicator 13 Checklist Frequently Asked Questions (2006), which states that "students need to have at least one postsecondary goal that covers the areas of education or training, employment, and, if appropriate, independent living." You indicate that similar guidance is provided in the NSTTAC Indicator 13 checklist, used in preparing State Performance Plan and Annual Performance Report submissions. You ask whether OSEP's position is that postsecondary goals in the areas of training, education, and employment are required, and if more than one postsecondary goal is required.

OSEP's position continues to be that IEPs that address transition services must include appropriate measurable postsecondary goals in the areas of training, education, and employment, and, where appropriate, independent living skills. However, based on your inquiry, we would like to provide further clarification on appropriate measurable postsecondary goals in the areas of training and education.

Section 614(d)(1)(A)(i)(VIII) of the IDEA requires that a child's IEP include "beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter— (aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills." 20 U.S.C. 1414(d)(1)(A)(i)(VIII)(aa). The regulation at 34 CFR §300.320(b)(1) essentially incorporates this statutory provision.

OSEP interprets this statutory provision as not requiring, in general, that IEPs that address transition services include separate postsecondary goals in the areas of training and education.

The IDEA and its implementing regulations do not define the terms “training” and “education.” However, the areas of training and education can reasonably be interpreted as overlapping in certain instances. In determining whether postsecondary goals in the areas of training and education overlap, the IEP Team must consider the unique needs of each individual student with a disability, in light of his or her plans after leaving high school. If the IEP Team determines that separate postsecondary goals in the areas of training and education would not result in the need for distinct skills for the student after leaving high school, the IEP Team can combine the training and education goals of the student into one or more postsecondary goals addressing those areas. For example, for a student whose postsecondary goal is teacher certification, any program providing teacher certification would include education as well as training. Similarly, a student with a disability who enrolls in a postsecondary program in engineering would be obtaining both education and occupational training in the program. The same is true for students with disabilities enrolled in programs for doctors, lawyers, accountants, technologists, physical therapists, medical technicians, mechanics, computer programmers, etc. Thus, in some instances, it would be permissible for the IEP to include a combined postsecondary goal or goals in the areas of training and education to address a student’s postsecondary plans, if determined appropriate by the IEP Team. However, the guidance we are providing is not intended to prohibit the IEP Team from developing separate postsecondary goals in the areas related to training and education in a student’s IEP, if deemed appropriate by the IEP Team, in light of the student’s postsecondary plans. On the other hand, because employment is a distinct activity from the areas related to training and education, each student’s IEP must include a separate postsecondary goal in the area of employment.

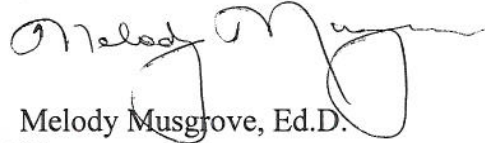
Therefore, OSEP will inform NSTTAC that the guidance documents referred to in your letter will need to be revised to specify that, to be consistent with the IDEA, IEPs that address transition services must include a separate postsecondary goal in the area of employment, in addition to at least one postsecondary goal in the areas of training and education. Likewise, because independent living skills are distinct from employment, we will also inform NSTTAC that it will need to revise its guidance to specify that, to be consistent with the IDEA, a student’s IEP must include a separate postsecondary goal in the area of independent living skills, where appropriate.

The guidance provided in this letter is incorporated in questions F-1 and F-3 in the “Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations” and a new section B. has been added to the “Questions and Answers on Secondary Transition.” These revised OSEP guidance documents are posted at <http://idea.ed.gov>.

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.

If you have additional questions, please do not hesitate to contact Deborah Morrow at 202-245-7456 or by email at Deborah.Morrow@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs