

## **PSC-ED-OSERS**

**Moderator: Paul Steenen**  
**October 24, 2017**  
**11:30 am CT**

Operator: Welcome and thank you for standing by.

At this time, all participants will be in a listen-only mode until the question-and-answer session of today's conference. At that time, to ask a question, please press star followed by the number 1 in your phone. Unmute your phone and record your name when prompted.

This call is being recorded. If you have any objections, you may disconnect at this time.

May I introduce your speaker for today, Paul Steenen.

Please go ahead.

Paul Steenen: Good afternoon, everybody, or good morning, depending on where you're calling in from. Welcome to today's stakeholder call regarding OSERS regulatory reform effort. We appreciate you joining the call.

Today, with us, we have OSERS Acting Assistant Secretary Kim Richey, OSEP Acting Director Ruth Ryder, and RSA Acting Commissioner Carol Dobak who will provide further information regarding the announcement on Friday, October 20th, regarding the 72 guidance documents relating to the Individuals with Disabilities Education Act, and the Rehabilitation Act of

1973 that had been rescinded due to being outdated, unnecessary or ineffective.

Before I turn the call over to OSERS's Acting Assistant Secretary Kim Richey, I would like to turn it over to our Press Secretary Elizabeth Hill.

Elizabeth Hill: Hi, everyone. Thank you, Paul.

As Paul said, my name is Liz Hill. I'm the Press Secretary for the Department of Education.

This is not a press call. I understand the (call-in info) for this call for stakeholders was spread across social media. So there is the potential that press is on the line.

This is once again an off-the-record call for stakeholders. Any press on this call can e-mail me directly if you need any information on the record or any additional information on what is discussed here on the record. If you have my personal e-mail address, of course you can use that. If you do not, you can e-mail [press@ed.gov](mailto:press@ed.gov). P-R-E-S-S@ed, E-D, .gov. And the e-mail will get to me.

Thanks, Paul.

Paul Steenen: Thank you.

At this time, I'd like to go ahead and turn the call over to OSERS Acting Assistant Secretary Kim Richey.

Kimberly Richey: Great. Paul, thank you so much.

Good afternoon, everyone, and thank you again for joining us. I appreciate you taking time out of your schedule to jump on the phone with us and talk about some of the recent work that OSERS has been conducting.

As you well know by now, on Friday, OSERS announced a total of 72 guidance documents that we are moving forward with and have recommended rescinding due to being outdated, unnecessary or ineffective. Sixty-three of those documents are from OSEP, our Office of Special Education Programs, and nine of those documents were produced by RSA, Rehabilitation Services Administration.

The basis for the action and the recommendation by OSERS is that the guidance documents identified are outdated or have been superseded by subsequent changes in law or regulations, or OSERS has issued more recent guidance that would supersede the original document included on this list.

It is important to note that, historically, OSEP has never gone through this process of rescinding outdated guidance that is no longer used by the field. Although RSA recently retired several guidance documents, that effort was aimed at clearing the deck just after the Workforce Innovation and Opportunity Act was passed and signed into law. So even RSA had a few documents that have since been superseded by either new regulations or updated guidance.

The recommendation to rescind these specific documents was supported by OSERS staff, career staff. And OSERS presented these recommendations to the Regulatory Review Task Force where there was agreement that the recommendations included no substantive changes in policy.

The reason for the decision is that the identified documents serve no use in the field. In fact, as many of you have noted, many of these documents on the list

are not posted to the OSERS Web site. That is because they are no longer relevant or used in the field. Since the rescinded documents are outdated and have been superseded by new regulations or guidance, the rescission of these documents will not impact services to children or youth with disabilities or individuals with disabilities served under RSA.

I want to say at the outset that our intention here in OSERS - that my intention is to be as transparent as possible. The purpose of the release was to alert you to the ongoing work that OSERS staff has been conducting. And similar announcements are forthcoming from other offices within the Department this week.

That being said, I do want to be very clear. The rescission of these documents reflects no change in OSERS policies. This effort was aimed at clearing the decks, cleaning house and rescinding documents that are out of date and unused by our stakeholders.

I do want to say that I very much appreciate those of you who have reached out to me directly, those of you who have contacted me directly seeking additional information.

I hope that the information that we distributed yesterday, the Updated Guidance Document that did include specific information and the reason for the rescission addressed your questions and your concerns. All of us in OSERS are committed to transparency. And we do want to work with you moving forward to ensure that you have the information you need to serve children and individuals with disabilities and their families.

At this point, I am going to hand it over to Ruth Ryder and to Carol Dobak to discuss in detail the more substantive issues concerning the rescinded documents.

Ruth?

Ruth Ryder: Thank you, Kim.

I do want to reiterate something that Kim said. And that is that many of these documents that are on the list of OSEP documents that were rescinded are very old going back to the 1980s, and OSEP had never strategically gone through the process of retiring old guidance documents. So we took this as an opportunity to go back and review that - those documents, many of which are before the most recent 2004 Reauthorization and get those documents off the book.

And they tend to fall into several broad categories. I'm just going to walk through those quickly. The first one which I think is a large number are annual programmatic memos from years past which address specific issues, typically some type of submission that was due from a state, such as their 618 State Reported Data, their application for funds, annual performance report or presenting information on monitoring activities that will impact state.

The information in those memos is no longer timely or relevant. And some examples of those are OSEP Memo 9901, which was talking about our continuous monitoring process; OSEP Memo 99-14 which was guidance related to the state improvement grant; and then OSEP Memo 00-17 which was implementing a new funding formula under the IDEA.

The second category is memos regarding specific grant requirements that have been superseded by the Uniform Grant Guidance. And therefore those memos are no longer needed and are outdated. And examples of those include OSEP Memo 85-9, which is on Grantback requirements, and OSEP Memo 85-19 which is on excess cost requirements under Part B.

Next category is guidance that was issued after a reauthorization but before regulations were in place. So that typically happened between 1997 and 1999 and then 2004 and 2006. These documents provided guidance to states on implementing statutory changes in the IDEA until we could get regs published. And these documents then became unnecessary and obsolete when the regulations were published in 1999 and then in 2006.

So some examples of those include OSEP Memo 98-08, which indicated the effective date of new IEP requirements that came out of the 1997 very significant reauthorization; OSEP Memo 98-01 which provided additional information related to statutory changes specific to Part H; the July 25th 2005 Dear Colleague Letter which address administrative costs related to IDEA that were made in the 2004 amendments; and then the March 27th 2006 Q&A on serving children with disabilities placed by their parents at private schools which was superseded by the 2011 Q&A which actually is more extensive than the 2006 document.

The next category is transmittal memos that were issued to make the field aware of the publication of time-bounded, time-sensitive IDEA-related documents in the Federal Register. And an example of that includes OSEP Memo 98-13 which is OSEP's response to comments on IDEA forms, and OSEP Memo 99-11 which transmitted the final 1999 regulations, and then OSEP Memo 05-10 which transmitted a notice of proposed rulemaking for the 2004 reauthorization, the regulations that came out of the 2004 reauthorization.

And the last category is memos addressing other statutes that may have impacted state IDEA grants and responsibilities to children with disabilities. And these memos typically covered limited issues for specific time periods and are considered outdated because the underlying regulations have changed or the date by which the states were required to act has passed.

Examples of that include OSEP Memo 93-16 which was related to the impact of the Cash Management Improvement Act on IDEA Part B State Grants for Fiscal Year 1994 and OSEP Memo 02-10 which was related to Medicaid and upcoming compliance deadlines under HIPAA and ASCA.

So those are examples of the OSEP's documents that were outdated and therefore were rescinded.

I'm going to turn it over now to Carol Dobak to talk about the RSA documents.

Carol Dobak: Thank you, Ruth.

Before I get into specific examples of the type that Ruth just gave, I want to pick up on something that Kim had referred to in her remarks at the beginning of the call. I want to emphasize that the retirement of documents because of—they're being outdated by statute or regulation has been an effort that RSA had historically engaged in with every reauthorization of the Rehabilitation Act and the development of new regulations related to those reauthorizations. This is not new for us. And as recently as the publication of the regulation, implanting changes to the Rehabilitation Act brought about by the Workforce Innovation and Opportunity Act, WIOA, we engaged in this process once again.

You can find the list of those documents that were retired in a Policy Directive 1701 that was published in January of this year. And it can be found on our Web site at [rsa.ed.gov](http://rsa.ed.gov).

What we found though is after engaging in that effort and then taking a look at guidance through our regulatory reform efforts, we had missed a few pieces. And those pieces are represented by the nine that were retired most recently.

And again, those pieces have been retired because they are outdated by statute, in most cases by WIOA, or for some other reason.

For example, there is an information memorandum that described a particular grant program to transition high school to high-tech programs. That program is no longer in existence, and thus the IM is outdated or Information Memorandum is outdated. In addition, as you may be aware, WIOA transferred administrative responsibility for independent living programs established under Rehabilitation Act from Rehabilitation Services Administration here in this Department of Education to the Department of Health and Human Services.

Thus, there were two pieces of guidance related to Centers for Independent Living programs that we have retired or rescinded here as they, too, are outdated as of the enactment of WIOA.

And there are two additional pieces that again were merely list of documents that were retired in earlier efforts following the 1992 and 1998 amendments to the Rehabilitation Act. Again, those are examples of the nine documents that were retired, all for reasons of being outdated. And again, I emphasize as Kim did that the retirement of these documents does not represent any change in policy.

Kimberly Richey: Thank you so much, Ruth and Carol, for highlighting these issues for us today. I very much appreciate all of the work that you and your staff have done on this to help expedite this process. So thank you very much.

Before we hand it—before I hand it back over to Paul and our operator for questions to open the floor to questions, I do want to talk a little bit about what is next on the horizon and where we are moving as far as our work on the Regulatory Review Task Force.



As we mentioned in our correspondence on Friday, OSERS has completed Phase 1 which again—limited and focused on identification out-of-date guidance that is no longer useful to the field and really focusing those efforts on rescinding documents that have been superseded by subsequent guidance and regulations.

As we begin to move forward into Phase 2, what we will be looking at and reviewing as a part of the Regulatory Review Task Force are those remaining policy documents and of course the many comments that you all filed as a part of that public review and open that public comment process which concluded last month. So over the next several months, OSERS staff will continue efforts to review those existing policy documents.

We are actually still working on compiling all of the comments that were received as we work with the other department officials and offices to collect those comments. We are in the process of reviewing your comments that you've submitted and we'll certainly continue that effort to review and analyze those comments as we evaluate existing policy documents.

We are committed to taking your comments seriously and thoughtfully. I know several of you have reached out to me directly as followup to your comments. And I certainly appreciate your efforts to remain connected to OSERS.

As we continue to work our way through that process, we will certainly work to keep you updated. As I mentioned earlier, we want to work with you moving forward. And so I certainly encourage you to stay in contact with either Ruth or Carol or me.

I've had met with most of you over these first four months of my tenure here in OSERS. And as I mentioned when I met with you personally, I do want to

continue to work with you, to learn from you and to continue our open dialogue.

So thank you again for joining us today. I will hand it over to Paul and the operator so that we can open the queue up for questions.

Paul Steenen: Operator, this is Paul Steenen. If you could go ahead and open up the lines for questions and answers. And when you open those lines, if you can have the person state their name and if you could state their name and organization, that would be appreciated.

Operator: Thank you. We will now begin the question-and-answer session of today's conference.

If you would like to ask a question, please press star followed by the number 1 on your phone. Unmute your phone and record your name clearly when prompted. Your name will be required to introduce your question.

To cancel your request, press star followed by the number 2.

Speakers, our first question comes from (Adam Seth) from (DDDF).

Your line is now open.

Paul Steenen: (Adam), are you there?

(Adam Seth): I am actually. But I don't have a question. I'm sorry.

Paul Steenen: Okay. Operator, can we have the next caller? (Adam) does not have a question.

Operator: Yes. Our next question comes from (Lindsey Boomer) from Special Needs Parents.

Your line is now open.

((Crosstalk))

Paul Steenen: (Lindsey), are you there?

((Crosstalk))

Paul Steenen: (Lindsey)?

Operator, (Lindsey) does not seem to be there. Can we have the next caller?

Operator: Yes. Our next question comes from Teresa Champion from Virginia Autism Project.

Your line is now open.

((Crosstalk))

Teresa Champion: Hi. This is Teresa Champion from the Virginia Autism Project.

Are you able to hear me?

Paul Steenen: Yes.

Teresa Champion: Thank you. I have quick question. And these are housekeeping questions. One, how many people are on the call? Two, where

will the recording be posted? And three, how do we continue to remain connected to upcoming information and calls?

Ruth Ryder: This is Ruth. I don't think we know right now how many people are on the call. There will be a transcript through the Federal Relay Service of the call that will be available.

And it will be posted on our Web site, which is in ed.gov. And if you go into ed.gov and search on IDEA, it will take you to the IDEA Web site.

And as far as staying engaged, we are trying to keep updated information on our Web site and are considering ways that we will continue to involve people as we move forward, perhaps more conference calls like this. We also have done—made blog opportunities for—available for people to submit comments to us.

Paul Steenen: And to follow up, this is Paul Steenen. To follow up on what Ruth said, also on the OSERS home page are the letter that Kim sent out on Friday as well as the two charts.

Teresa Champion: I'd see. Are you able to hear this comment?

Paul Steenen: Yes.

Teresa Champion: All right. I'm on your OSERS home page. Is that the OSERS Regulatory Reform Update?

Paul Steenen: Yes.

Teresa Champion: And then the chart? All right.

Paul Steenen: Yes.

Teresa Champion: And so will you post something there—I mean I'm just trying to make sure we don't have to like catch something accidentally on the social media page. We want to make sure we have intentional communication with the community.

Paul Steenen: I think that when documents become public and available, we will post them, you know, as they—as it is appropriate to do so when there are other sort of releases like there were with this one.

Teresa Champion: Okay. That's very vague. But I appreciate it. Thank you.

((Crosstalk))

Paul Steenen: And as Ruth Ryder had stated, we will keep people informed in the process.

Kimberly Richey: Teresa, hi. This...

Teresa Champion: (How? And how?)

Kimberly Richey: ...—Teresa, hi.

Teresa Champion: Yes.

Kimberly Richey: This is Kim Richey again. I just wanted to add a little bit to what Ruth and Paul have already referenced.

One of the things that OSEP has done is I feel like they've stayed really in touch with stakeholders through the OSEP newsletter, which you can subscribe to on OSEP's Web site.

We have included information about blog posts and announcements regarding the regulatory review work in that newsletter. And that is a useful tool to receive notifications on the work that is ongoing.

Paul Steenen: And we also have one of those on a GovDelivery email—news from the Assistant Secretary—in keeping people informed also. And RSA also has those types of LISTSERVs available that we've been trying to keep people informed.

Teresa Champion: That's more specific. Thank you.

Paul Steenen: You're welcome.

Operator, next caller.

Operator: Yes, thank you. Our next question comes from (Steve)...

((Crosstalk))

Operator: ...of Westminster Public Schools.

(Steve): Thank you very much.

Operator: ...is now open.

(Steve): I appreciate the information that was provided to us today. It does clarify and answer a lot of questions that we as special ed directors had I think across the country.

I do have a question with regard to the next steps. Kim, you talked about Phase 1 and Phase 2—Phase 2 being reviewing policy documents based on the comments that were made. Is the end goal to derive a new reauthorization of IDEA from all this work?

Kimberly Richey: You know, I—that—the honest answer, (Steve) is that has not been the end goal. You know, that has not been one of the purposes of the Regulatory Review Task Force work over the past several months. I think that Executive Order 13777 was very limited in its scope and really charged federal agencies with tasks that really focused on identifying guidance and regulations not only that are outdated and unnecessary, but also that imposed cost or exceeded the government benefits that we have or that people that the public actually received.

But if you go back and look at that Executive Order that was issued, there really are four or five limited goals that we are trying to accomplish as a part of our Regulatory Review Task Force efforts. And it really, really focused on examining the level at which the government has—at least at the federal level has used the regulatory process to impose specific requirements outside of statutory provisions.

And so I would not say that there's a connection at all to our work and any potential IDEA reauthorization.

(Steve): Thank you.

Operator: Operator, next caller?

Operator: Yes. Our next question comes from (Susan Brettis) of The Parent.

Your line is now open.

(Susan Brettis): Hi. Can you hear me?

Paul Steenen: Yes, we can.

(Susan Brettis): Hi. Yes, I had questions regarding the, I guess the list of the items that are currently being rescinded or retired. I know during this discussion there were some examples given, certain regulations that fell under certain umbrellas for why they were being retired. Will there be a more detailed list provided that gives families and other stakeholders more information about why these items are being retired or where the new regulations can be found that supersede these, in particular with some of the Dear Colleague letters?

Ruth Ryder: Just a point of clarification, there were only guidance documents included in the list, not regulations. And there was a list sent out, a second list sent out yesterday that included a new column. That was the Reasons for Rescinding.

(Susan Brettis): Okay.

((Crosstalk))

(Susan Brettis): For example, like, the—some of the Dear Colleague letters, those are pretty widely used when families are trying to meet with school districts to find or to, I guess, interpret and more specifically define what should be done in



certain situations. And I know that that is something that is a large concern for a lot of people. So if some of these are—there's other guidance that supersede or regulations that came about with the 2004 reauthorization, a direct line to that specific information may be helpful.

Ruth Ryder: I think that there were only one or two Dear Colleague letters that were actually on the list. And one of them was the Preschool Dear Colleague letter from...

(Susan Brettis): And one was related to the ADHD, which I know is a pretty big one.

Ruth Ryder: From 2000—the preschool letter was from 2012. And it was actually superseded by a more comprehensive letter on preschool LRE. So...

((Crosstalk))

(Susan Brettis): And then—and there was one related to ADD and ADHD.

Ruth Ryder: That was not a Dear Colleague letter. That was a notice of comment. We had done a notice inviting comment and it was kind of a summary of those comments that we received.

So thank you.

Paul Steenen: Operator, next caller?

Operator: Our next question comes from (Laura) Kaloï of the Council of Parents Attorney and Advocates.

Your line is now open.

Laura Kaloi: Hi. This is Laura Kaloi. Thank you for hosting the call. My question is actually two parts, focused on Phase 2 and I guess what will be Phase 3.

The first part of the question is can you commit or what could you do to commit to provide and build into the process more accurate information in a timely way so that time isn't spent trying to figure out what the rationale and reasoning is? That's the first part of the question is, you know, if that part of the process can be discussed and revised by OSERS.

And then the second part of the question is as you consider the decisions ahead related to additional guidance and/or regulation, are you going to follow the laws required by the Administrative Procedures Act?

Kimberly Richey: Hi, Laura. This is Kim. Thank you for the question. It's good to talk to you again.

I'm going to take my first shot at this and then I'll pass it over to Ruth and see if she has any additional information to add.

So I want to start with your second question just because to me it's the easiest. There is nothing in law or in the Executive Order that would authorize the Department to act independently of the requirements in the Administrative Procedures Act. I have, you know, I've spoken with several stakeholders about this and I feel like even when OSERS conducted its public hearing in September, I feel like this may have been perhaps a matter of confusion.

But if OSERS or if the Department determines that any change to any regulatory provision, whether it's RSA's regulations or OSEP's regulations, the agency would be required to follow the Administrative Procedures Act. And there's nothing that would exempt the Department from having to meet and follow those requirements.

With regard to your first question, I just want to reiterate what I - one of my comments that I made when I started the call off. It is not my intention; it's not anyone's intention in OSERS to not be transparent or to not communicate with stakeholders throughout this process. And I think that how quickly we were able to turn around and get an updated chart to folks I hope demonstrates that we do want to continue to work closely with you all and to provide accurate and timely information as we move forward through this process.

Related to that, the approach that we took with regard to Phase 1 I think is at least in part attributed to the fact that the guidance documents that were recommended for rescission, it seems so plainly that they were out of date, that they were not being used by the field, that there was no policy decisions linked to Phase 1. I think all those factors at least played in part or at least informed how we moved forward in rescinding this first batch of documents.

And, you know, I said it earlier and I'll say it again, as we move through this process, as we consider documents that are not outdated, that the field actually relies on, it will be a goal moving forward to engage a different process so that you are made aware and that there is more of an open communication as we move forward.

Ruth, do you have anything that you want to add?

Ruth Ryder: I agree with everything you said. I think though the one thing I would add is that it seems like people have found the Reasons for Rescinding column that we sent out yesterday, the updated chart, to be helpful. And I think we can commit to doing that and perhaps flushing out the explanations a little bit more to the extent that we can.

Paul Steenen: And the chart that Ruth's mentioning is on the OSERS home page at this time.

Operator, next question.

Operator: Our next question comes from Ron Hager of the National Disability Rights Network. Your line is now open.

Ron Hager: Thank you. Can you hear me?

Paul Steenen: Yes, we can.

Ron Hager: Thank you, Kim and Ruth and everyone else. I appreciate the opportunity to have this discussion. I did have a couple of process questions. And then I had a separate one on the RSA side.

Now, Kim, you had said that you're recommending these to be rescinded. Is there another step in this process? That's the first question.

The second one is that you had outdated, unnecessary or ineffective, so none of—are any of these in the ineffective category? Is that—or is that what you're thinking of for the next phase?

And then the third is you had that long list of guidance this summer. Is there anything that you're looking at that was not in that list or are these all ones that were in that original list?

Kimberly Richey: Hey, Ron. It's good to talk to you. Thank you for the questions.

Again, I'm going to take the first shot at this and then I will pass it off to Ruth to see—or and Carol actually and see if folks have anything to add.

So I think your first question was about process?

Ron Hager: Yes.

Kimberly Richey: And so when I spoke earlier and I said that OSERS made the recommendation that these documents be rescinded, I was really more referring to the Department's agency wide efforts. So there is a regulatory review task force that is charged with implementing the requirements of the Executive Order. And really my earlier comment was just a reference to the process we went through to make this information public.

Folks in Carol's shop and folks in Ruth's shop and folks on my team worked to finalize that set of recommendations and it was submitted to the Regulatory Review Task Force where it was considered by a larger group of individuals. And so that was the recommendation that I was referring to earlier.

With regard to your second question about the ineffective or outdated policy documents, all of the outdated documents that have been identified by staff are included in this initial release, this—what we've been informally calling Phase 1. My recollection is that there are not any additional outdated documents or documents that are not used by the field. But I'm looking around the table to make sure that is correct.

So moving forward, you know, part of what we are looking at, obviously the remaining policy documents are documents that are more widely used by the field and actually used in that way and informing the services that are provided to kids with disabilities.

You know, I have spoken with a couple of you offline about the list that we linked to when we sent out some of our original notices, so actually soliciting

public comment from stakeholders. And you are correct. We did include a link to a list that really kind of reflected OSERS' active nonregulatory guidance documents. Those are the documents that we are looking for or looking at and really reviewing moving forward.

I know I did have a couple of stakeholder groups raise the issue that the guidance documents that were included in Phase 1 were not a part of that link that we originally sent out to stakeholders and actually asked for input on. And I feel like the explanation to that is actually quite simple. These documents are not being used by the field. And so because they are not used by the field, because most of them are not even on our Web site, there was not a need at that time to ask for input on what the Department should do with those regulations.

So we kind of considered these, at least internally, the low-hanging fruits, you know, the documents that are not widely used, and as such could be rescinded without any effect to the field or without there being any effect to the services provided to children and youths.

But that's just my two cents. I certainly want Ruth and Carol to chime in if they have anything else to add to that.

Ruth Ryder: This is Ruth. I would just add as clarification, many of these old documents, the ones that are from the 80s and the 90s, we don't have electronic copies of them. We have old copies of copies of copies and they're very poor quality. And because we have not used them and had not posted them, we did not have them on the list.

And on your first question or maybe it was your second question, you asked about outdated. Are all the documents outdated? All of the documents are outdated on the list. Some of them are outdated because they were superseded

by newer documents. So—and that is on the revised list that we made available. And as Paul has pointed out, it’s available on our—the OSERS Web site.

Carol Dobak: Yes. And this is Carol, Ron.

I, again, reiterate that all nine of the RSA documents have been rescinded at this point in time because they were outdated.

Ron Hager: Can I ask a followup to you, Carol?

Carol Dobak: Yes, I figured.

Ron Hager: The January memo, you had asterisk by the number the documents. (Unintelligible) you were going to hopefully do a revised version, you know, reflecting the current, you know, current change to the law. I just hope that you had the time to do that. Because a number of those documents, although old, we (unintelligible). So I just hope that you will have the ability to follow up and revise those documents. And thank you.

Carol Dobak: You’re welcome.

Paul Steenen: Operator, next caller.

Operator: Our next question comes from Deb Ziegler of the Council Exceptional Children.

Your line is now open.

Deborah Ziegler: Thank you very much, Kim and Ruth. And, Kim, thank you so much for holding this call and the clarifications. Actually my question was answered in previous question. So I'll just say thanks and you can move onto the next person.

Paul Steenen: Thank you, Deb.

Kimberly Richey: Thanks, Deb.

Paul Steenen: Operator, next caller.

Operator: Thank you. Our next question comes from Marty (Omoto) of the California Disability Community Action Network.

Your line is now open.

Mary Omoto: Thank you. Marty Omoto. Actually all my questions were answered, but - and then I also want to say that I appreciate the call.

I just want to—the one thing—just a clarification. The announcement to rescind the 72 documents—and you did clarify that. I just want to make sure those are in effect now, meaning the (rescission). And again, thanks for this call.

Ruth Ryder: I'm not sure that we understand your question. The documents have been rescinded.

Mary Omoto: Yes, that—okay, that was my question. Earlier, I mean she—one of you explained that it was proposed. But that was a reference to the earlier process



and that the announcement on Friday was an announcement that those documents were rescinded.

Ruth Ryder: That's right.

Mary Omoto: I just want to make sure that was the case. So thank you.

Ruth Ryder: Thank you, Marty.

Paul Steenen: Operator, next caller.

Operator: Our next question comes from Lisa (Geng) of (Cherab) Foundation.

Your line is now open.

Lisa Geng: Hi, I'm sorry. It's Lisa Geng. And it's Cherab Foundation.

Most of my questions were answered. I just was concerned because one of the people in my group is a retired deputy education commissioner and, you know, I know the way legal things are. You change one word and it can change the meaning of the entire document.

So my question is I know that a lot of these documents have been updated and these are old and all of that. One of her statements was that, you know, we use these guidelines—her exact quote, “The guideline memos at the federal level are crucial to a uniform and consistent national interpretation of the federal law. Without them, states and our school districts would be free to interpret policies in different ways.”

So, you know, I, too, want to thank you for having this call and allowing us to ask questions. I just wanted to see if I can have input back because obviously that's concerning because I know, you know, special education, especially I outreach, too, those individuals with (unintelligible) disabilities like autism and apraxia. They don't always have the protections without us as the parents going in there and advocating. You know, it's not like a visual impairment or hearing impairment

So you need to really, as a parent, you know, of a little kid, you have to kind of learn a lot and be out there and advocating. And so I just wanted to kind of get your input. I don't know if it's really a question as much as kind of if you could address that concern.

Thank you.

Ruth Ryder: Thank you, Lisa. This is Ruth. I don't think that any of the documents that were rescinded are documents that are being regularly used. As Kim has said a couple of times, we were not getting any indication that those documents were being used. And, in fact, many of them had information in it that was not only outdated but incorrect.

So—and we will certainly take your comments into consideration as we move forward with Phase 2. Thank you.

Lisa Geng: Thank you.

Paul Steenen: Operator, next caller.

Operator: Thank you. Our next question comes from (Roicki) Sabia of the National Down Syndrome Congress.

Your line is now open.

Ricki Sabia: Hi. It's Ricki Sabia. I want to thank you for this call. You know, it does help clarify some things. I want—I have a comment about the outdated and then a question about the unnecessary and ineffective portions of this effort.

On the outdated, I just want to make the point—and this kind of ties into what the parent said earlier—that what's outdated can be a bit subjective in the sense of, you know, if something is inaccurate, you know, because there have been other laws or whatever, obviously they need to go. Although often with reauthorizations, some of the provisions remain the same for generations and, you know, guidance may touch on something that is still valid.

And so, you know, to the extent there are things that may have had a more recent guidance, but there may be information still accurate in those older ones, you know, my thought would be if there could be a note on those older ones with the link to the more recent one without necessarily rescinding.

And also thank you for the more updated list with the rationale. Although in the future, it'd be really helpful if you could put the link to the information that was updated.

And the other piece about outdated is that some of these pieces that may have had regulations that come after them but are still accurate, maybe a more parent-friendly language than regulations to help them understand. So, you know, please consider that perspective as you're going through the process.

My question when it comes to the other two categories is, you know, again, this is rather subjective about what's necessary and what is ineffectual. And, you know, from a family's perspective and what they need to help them understand to advocate for their children because that's what this is about, you know, in the bottom line, may be somewhat different than some of the internal perspectives you're getting.

And since this could really impact families—and it's obviously a great area of concern for families—before those final decisions are made about what might be unnecessary and ineffective, so that you just announced these are rescinded, will there be a process in place for reaching out to advocacy organizations that represent families to see, you know, how much they do use these documents and their perspective on why they may not be unnecessary or ineffective? Thank you.

Ruth Ryder: We are still working on reviewing the comments that came in. And we've received—the Department has received over 16,000 comments. And we're still—they're still being routed to the program offices. And we have about 1000 right now, and we may be getting more.

So I think I—in the number that I reviewed, we did get the perspective of a lot of families, parents. We were really pleased at how - I mean, certainly we have organizations as well. But we did get a lot of input from families.

Ricki Sabia: I guess what I just would like to say about that is I think a lot of us were talking—you know, it was very broad. We don't know what would be looked at. There were tons of things that were in that list. We didn't necessarily hone on this specific one or that specific one. If we knew that these specific ones were ones that were being considered to be rescinded, there could be a more specific dialogue around those specific items. That's just my point.

Ruth Ryder: Thank you for your input, Ricki. We'll think about it.

Ricki Sabia: Okay, thank you.

Paul Steenen: Operator, next caller?

Operator: Thank you. Our next question comes from Steven (Solomon) of the organization Disability Rights Texas.

Your line is now open.

Paul Steenen: Hello. We can't hear you.

Steven Aleman: This is Steven Aleman from Disability Rights Texas, the CNA in Texas.

A process question. Again, thank you so much for this call and many questions have been answered. I have a process question going forward, particularly with regard to Phase 2 in a more substantive review. What, if any, guidance have you received or will need to get from the Office of Management and Budget, OMB?

Kimberly Richey: The input from the Office of Management and Budget on what, Steve?

Steven Aleman: On Phase 2 with regard to the more substantive review and possible rescission of policy guidance. What, if any, guidance or directive or clearance will you need from OMB?

Kimberly Richey: So hi, Steven. This is Kim. I'm going to take a first shot at this and then open—you know, pass it off to folks who may have more input.

But, honestly, I think that that's probably a question that's better directed to individuals within the Department that are leading the agency-wide effort to review regulations and nonregulatory guidance under the Executive Order. My understanding is that the Executive Order established the authority for the Department and all government agencies to move forward with this review. But at least our work, those of us who are sitting at this table, has been very limited to OSERS, you know, to us focusing on OSERS nonregulatory guidance and outdated guidance up unto this point. And, you know, I think those broader questions that relate more to the overall process or the government-wide process are probably better directed to individuals who are looped into that process instead of us.

But, you know, we can certainly try to follow up with that and get that information to you.

Paul Steenen: Operator, this is Paul Steenen. We'd like to take one more call today.

Operator: Yes. Our next question comes from Paula Goldberg of the PACER Center.

Your line is now open.

Paula Goldberg: Hi. This is Paula Goldberg. Thank you also for the call.

One of the things that I think was worrisome when people got the notice and it said "72 rescinded"—and people really didn't understand that. We work with families of children with all disabilities. So I guess once we went through some of it, it would have been helpful if on the cover you could have said that no IDEA law or regulations were changed. And that would have helped because we weren't sure when we went through the 72 whether there were some things that were regulations and so on.

So in the future when you look at Phase 2, I think if it is anything to do with regulations, if you could highlight that. I'm not exactly sure what Phase 2 is going to be. But that would be important. And I agree with Ricki Sabia that to review a draft list might be useful for some of us who have been involved in working with families for a long time.

So, thank you for the call. And that was my suggestion. It would have helped us a lot because people saw on the newspaper 72 rescinded from special education, and it really sent a lot of worries around. Thank you.

Kimberly Richey: Well, thank you, Paula. I really appreciate that feedback. And we will certainly continue the dialogue with you all as we move forward in this process.

So I think that—I'm getting the sign that we are at the end of this call. I just—I really just want to take the opportunity again to thank you all for joining us today. I meant it earlier when I said that, you know, all of us here at the table look forward to working with you on these efforts moving forward. And so please do not hesitate to reach out to us as directly. We want to engage with you and we really do want to work collaboratively with you as we move through this process.

So thank you again. Please feel free to follow up with us if you have any questions. And we will definitely be in touch soon. Thanks again.

Paul Steenen: Operator, I'll be in touch with you. Thank you all for being on the call. We appreciate it.

Operator: And that concludes today's conference. Thank you for your participation. You may now disconnect.

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