



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

MICHAEL P. FLANAGAN
SUPERINTENDENT OF
PUBLIC INSTRUCTION

May 25, 2007

MEMORANDUM

To: ISD Special Education Directors, LEA Special Education Directors, Public School Academy Special Education Directors, Special Education Advisory Committee, ISD Planner-Monitors

From: Jacquelyn J. Thompson, Ph.D., Director
Office of Special Education and Early Intervention Services

Subject: Individualized Education Program (IEP) Check-box Does Not Initiate Due Process Hearing

On October 13, 2006, the Office of Special Education and Early Intervention Services (OSE/EIS) sent a memorandum reminding public agencies that new administrative rules and the final regulations implementing the Individuals with Disabilities Education Act (IDEA) required Due Process Complaints to be filed with the OSE/EIS and a copy provided to the other party. The memo also reminded public agencies that checking a box on an IEP form no longer initiates a due process hearing. The OSE/EIS suggested that public agencies remove the check box requesting a due process hearing.

The OSE/EIS also suggested that until new IEP forms were in use, if a parent checked the box requesting a hearing, the public agency should: 1) Provide the parent a copy of the procedural safeguards; 2) Remind the parent that due process complaints must be filed with the Michigan Department of Education (MDE) and a copy provided to the public agencies; and 3) Have the MDE model due process complaint form available to parents.

The OSE/EIS received comments from a variety of stakeholder groups regarding this issue. It was suggested that new language should be provided on the IEP to replace the check box. The OSE/EIS will take these concerns into consideration as we draft new due process procedures. At this time the OSE/EIS recommends that public agencies do the following:

1. Remove the check box that includes the statement, "*I disagree with the IEP and request a due process hearing.*"
2. Include a statement on the IEP signature page informing parents of their right to request a due process hearing and direct them to the procedural safeguards for information. The following language is suggested:

OSE/EIS 07-05

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • JOHN C. AUSTIN – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • MARIANNE YARED MCGUIRE – TREASURER
NANCY DANHOF – NASBE DELEGATE • ELIZABETH W. BAUER
REGINALD M. TURNER • CASANDRA E. ULBRICH

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

Memorandum
May 25, 2007
Page 2

If a parent or public agency disagrees with this IEP, either party has the right to request a due process hearing by following the procedures outlined in the Procedural Safeguards.

Public agencies are reminded that Section 300.504 of the IDEA requires public agencies to provide parents a copy of the procedural safeguards "...only one time a school year, except that a copy also must be given to the parents..."

- Upon initial referral or parent request for evaluation.
- Upon receipt of the first State complaint and first due process complaint.
- In accordance with the discipline procedures in Section 300.530(h).
- Upon request by a parent.

If you have any questions, please contact Harvalee Saunto, Acting Due Process Coordinator, at (517) 241-7507.