



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

THE ASSISTANT SECRETARY

MAR -6 2007

Buck Gwyn, Esq.
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Protection and Advocacy for
Individual Rights Program
320 West 25th Street, 2nd Floor
Cheyenne, Wyoming 82001

Dear Mr. Gwyn:

This is in response to your letter dated January 16, 2007, regarding the Wyoming Department of Education's (WDE) interim special education form entitled "Eligibility Criteria Learning Disability." In your letter, you ask whether WDE's form for determining whether a child has a specific learning disability is inconsistent with section 614(b)(6) of the reauthorized Individuals with Disabilities Education Act (IDEA). IDEA provides that in determining whether a child has a specific learning disability, an LEA may not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. 20 U.S.C. 1412(b)(6)(A).

Under the final regulations for Part B of IDEA (Part B), a State must adopt criteria, consistent with §§300.309, for determining whether a student has a specific learning disability, as defined in §300.8(c)(10). 34 CFR §300.307(a). In addition, the criteria adopted by the State must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has specific learning disability. 34 CFR §300.307(a)(1). The State criteria must permit the use of a process based on the child's response to scientific, research-based intervention and may permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in §300.8(c)(10). 34 CFR §300.307(a)(2)-(3). The criteria a public agency uses for determining whether a child has a specific learning disability must be consistent with the criteria adopted by the State. 34 CFR §300.307(b). In addition, when the State develops its criteria for determining whether a child has a specific learning disability, the State must include a variety of assessment tools and strategies and may not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability. 34 CFR §300.304(b).

As a result of your inquiry, Susan Falkenhan, the Office of Special Education Programs Part B State Contact for Wyoming, has had conversations with Peg Brown Clark, Director of the Special Education Unit at the WDE. It is my understanding that, based on these conversations, the State has removed the form prompting your inquiry from its

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website. Ms. Falkenhan is continuing to assist the State in issuing guidance that is consistent with the Part B requirements described above and that accurately reflects the State's criteria for determining whether a child has an SLD.

Thank you for writing and sharing your concerns with us. Please do not hesitate to contact my office if you have any further questions.

Sincerely,



John H. Hager