

# MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-\_\_\_\_\_

**TO:** Peggy McDonald, Director of the Office of Special Education,  
New Jersey Department of Education

**THROUGH:** Alma McPherson, Associate Division Director

**FROM:** Susan Falkenhan, OSEP New Jersey State Contact

**SUBJECT:** Specific Part B Assurance for Federal Fiscal Year (FFY) 2012

**DATE:** March 28, 2012

The Office of Special Education Programs (OSEP) received correspondence addressed to Secretary Arne Duncan, U. S. Department of Education (Department) on December 20, 2011 alleging that the New Jersey Department of Education regulation N.J.A.C 6A:14-2.5(c)(1) regarding Independent Education Evaluations (IEE) violates the IEE provisions in 34 CFR §300.502.

Based on a review of the New Jersey regulation, OSEP's assessment is that N.J.A.C 6A:14-2.5(c)(1) limits the parents' rights to an IEE by giving the public agency an opportunity to conduct an assessment in an area not covered by the initial evaluation or reevaluation before the parents are granted an IEE. In order to receive its Federal Fiscal Year (FFY) 2012 Part B grant award, the State will need to provide specific written assurance to OSEP that the State will: (1) Revise New Jersey regulation N.J.A.C 6A:14-2.5(c) to eliminate the provision that, "If a parent seeks an independent evaluation in an area not assessed as part of the initial evaluation or a reevaluation, the school district shall first have the opportunity to conduct the requested evaluation." (2) Ensure compliance in the interim throughout the FFY 2012 grant period with the specific requirements of 34 CFR §300.502; and (3) Send a memorandum to all Local Education Agencies to inform them of the changes to the regulation and the need to comply with the requirements in 34 CFR §300.502.

Attached is assurance language that the State may use to meet this requirement. Please submit the necessary assurance, dated and signed by the official who has authority to ensure compliance with the assurance, as soon as possible.

Please feel free to contact me or Alma McPherson, if you have any questions or concerns.

Attachment

cc: Gregg Corr



The New Jersey Department of Education hereby specifically assures that it shall:

- (1) Revise New Jersey regulation N.J.A.C 6A:14-2.5(c) to comply with the provisions in 34 CFR §300.502 regarding Independent Educational Evaluations (IEE) by eliminating the language which gives the Local Education Agency (LEA) an opportunity to conduct an assessment in an area that was not part of the initial evaluation or reevaluation before granting the parents an IEE, and submit to OSEP the revised regulation as soon as it is finalized but no later than December 31, 2013.
- (2) Ensure that, throughout the period that the State uses Federal Fiscal Year 2012 grant funds under Part B of IDEA, all LEAs will comply with the provisions of 34 CFR §300.502 regarding IEEs.
- (3) Provide OSEP with a copy of the memorandum notifying all LEAs of the changes to New Jersey regulation N.J.A.C 6A:14-2.5(c), regarding IEEs and the provisions of 34 CFR §300.502.