



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

April 10, 2012

Robert H. Finch, Ed.D.
Director of Special Programs
Little Cypress-Mauriceville Special Programs
6579 FM 1130
Orange, Texas 77632

Dear Dr. Finch:

This is in response to a letter you initially sent to the Office of Special Education Programs (OSEP) dated October 25, 2010, which you resent after Dr. Deborah Morrow of my staff informed you that OSEP had no record of receiving this letter. I apologize for the delay in our response.

Your letter requests further clarification of OSEP's August 2010 response to your previous letter regarding the Texas Education Agency's monitoring finding that your District did not include temporary goals or objectives in the interim programs for some transfer students. Specifically, your letter asks:

“Can the parent and the public agency, in the consultation described in 34 CFR §300.323(e), develop temporary goals that are aligned with the child's annual goals for those services as reflected in the child's IEP [individualized education program] from the previous public agency, without involvement of all the required members of the IEP Team as described in 34 CFR §300.321(a)?”

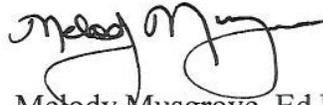
It is the Department's interpretation that, in transfer situations described in 34 CFR §300.323(e), the child's newly-designated IEP Team in the new public agency, which includes the child's parents, determines those services that are comparable to the services that were described in the child's IEP from the previous public agency. 71 Federal Register 46540, 46681 (Aug. 14, 2006). Consistent with this interpretation, if the new public agency convenes a meeting of the IEP Team for this purpose, the required participants listed in 34 CFR §300.321(a) must be included. However, any of the participants listed in 34 CFR §300.321(a)(2) through (5) may be excused if there is written consent, consistent with the provisions in 34 CFR §300.321(e). In the alternative, a parent and a public agency may agree not to conduct an IEP Team meeting and adopt temporary IEP goals consistent with the requirements of 34 CFR §300.324(a)(4). Under that provision, the parent and the public agency may agree to make changes after the annual IEP Team meeting, and may develop a written document to amend or modify the child's current IEP to address the temporary IEP goals for comparable services. The new IEP Team must be informed of the changes and the written document would be in effect only until the new public

agency either adopts the child's IEP from the previous public agency or develops, adopts, and implements a new IEP for the child that meets the applicable requirements in 34 CFR §§300.320 through 300.324. 34 CFR §300.323(e)(1)-(2).

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 Marion Crayton at 202-245-6474 or by email at Marion.Crayton@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Melody Musgrove, Ed.D.

Director
Office of Special Education Programs

CC: State Director of Special Education
Dr. Pauline Hargrove, Superintendent of Schools
Little Cypress-Mauriceville C.I.S.D.