



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

September 11, 2007

This letter is in response to your June 17, 2007 electronic mail (email) inquiry to Secretary Margaret Spellings, U.S. Department of Education, which was forwarded to the Office of Special Education and Rehabilitative Services, Office of Special Education Programs (OSEP), for reply. In your email, you point out differences in terminology between the Federal definition of specific learning disability and the definitions used by the Learning Disabilities Association of America (LDAA) and its Michigan chapter. Your email additionally describes your son's individual special needs, and asks for clarification on the definition of hearing impairment.

In response to your inquiry about the definitions and terminology used by the LDAA, it is not within the scope of the Department of Education's authority under the Individuals with Disabilities Education Act (IDEA) to require national organizations to adopt the exact definitions or terminology used in the IDEA or implementing regulations in 34 CFR Part 300 (Part B regulations). The IDEA authorizes Federal financial assistance to States and local educational agencies (LEAs) and authorizes OSEP to administer and carry out the programs and activities under the IDEA. Thus, the LDAA and similar national organizations that are not part of the State or LEA are not covered under the IDEA and are not required to use the same definitions or terminology as the IDEA and Part B regulations. In order for a State to be eligible to receive assistance under Part B, it must provide assurances to the Secretary of Education that the State has in effect policies and procedures to ensure that it meets the eligibility requirements in section 612 of the Act and the Part B regulations. The assurances relevant to your inquiry require a State to ensure that all children with disabilities residing in the State who are in need of special education and related services, are identified, located, and evaluated (20 U.S.C. 1412(a)(3); 34 CFR §300.111) and that a free appropriate public education (FAPE) is available to all eligible children (20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.113). In addition, a State must provide an assurance in its application for Part B funds that it will provide data to the Secretary of Education on any information that may be required by the Secretary. 20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.646. Consistent with this assurance, States receiving assistance under Part B must provide data to the Secretary and to the public on an annual basis on the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are receiving FAPE. 20 U.S.C. 1418(a)(1). This is true regardless of whether the State uses the terminology in the IDEA definition of "child with a disability," substitutes different terms for the terminology used in the IDEA definition, or does not classify any eligible children in the State by disability category.

The term "child with a disability" under Part B includes children with specified impairments who are evaluated and determined to need special education and related services by reason of those impairments. "Specific learning disability" and "hearing impairment" are two of the categories listed in the definition of "child with a disability" under Part B of the IDEA. 20 U.S.C. 1401(3)(A)(i); 34 CFR §300.8(a)(1). A State is not required to use the precise terminology of the IDEA in describing children who meet the criteria for a "child with a disability," provided that all children who are in need of special education and related services who have impairments listed in the Part B definition of "child with a disability" receive appropriate instruction and services.

It is important to note that the IDEA does not require children to be identified with a particular disability category for purposes of the delivery of special education and related services. A child is entitled to FAPE under Part B and not to a particular label. Implicit in the definition of FAPE is the requirement that a child with a disability be provided with special education and related services in conformity with the child's individualized education program (IEP) in the least restrictive environment. 71 Fed. Reg. 46540, 46553 (August 14, 2006). In the evaluation process, the Part B regulations require the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP. 34 CFR §300.304(b)(1). The child's IEP must include, among other things, a statement of measurable annual goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum and the child's other educational needs that result from the disability. 20 U.S.C. 1414(d)(1)(A)(i)(II). These provisions underscore that it is the child's unique, identified needs, not the child's disability category, that determine the services to be provided to the child.

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. We hope that you find the above explanation helpful. If you have any further questions regarding the requirements of Part B that have been discussed in this response, please contact Dr. Al Jones, the Michigan State contact for Part B in the Monitoring and State Improvement Planning Division, at (202) 245-7394.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education
Programs