

located at the base were deployed. Thus, the Army had to contract for cooks to provide food service to those located on the base. As the number of troops deployed decreased, the cooks from Fort Campbell returned to the base. Military personnel began to perform multiple tasks, including selecting the menus, preparing and cooking the food, ordering supplies, maintaining quality control of all food prepared and served, maintaining equipment, conducting headcount of soldiers served, and noting accountability of cash received. While these duties had been performed by the SLA, due to these changes, the Army no longer needed to have a contractor provide these services. However, the Army still had a need for a contractor to perform certain services because soldiers are precluded by Army Regulation 30–22 from performing dining facility attendant duties in a garrison environment.

The Performance Work Statement outlined the duties the contractor would now be required to perform. According to the Panel's decision:

[T]he contractor is to "hire and staff of qualified personnel . . . provide an on-site contract manager and with full authority to obligate the company and be responsible for overall performance . . . provide all employees with uniforms . . . establish and maintain a comprehensive quality control plan . . . train employees . . . maintain certificates and records . . . operate, and clean after each use, mechanical vegetable peeling machine . . . requisition, wash, peel and cut potatoes and fruit."

The Army Contracting Officer concluded that the required services did not fall within the scope of the Act.

Because of the Army Contracting Officer's decision, the SLA filed a request for arbitration with the Department contending the Army violated the Act and its applicable regulations, in 34 CFR part 395, when it issued this solicitation without applying the provisions of the Act to the Army's source selection process. The matter was then submitted to the Panel.

### Synopsis of the Panel Decision

A similar issue had arisen at Fort Campbell in the late 1990s. In 2002, an arbitration panel concluded that the services described in that Performance Work Statement fell within the terms of the Act. The Panel was asked whether the 2002 decision was binding through the principle of *res judicata*, given the similarity of issues and parties. The Panel concluded unanimously that the 2002 decision was not binding on the Panel because there had been several judicial rulings and pronouncements by Congress since the earlier case was

decided. The Panel decided, however, to give that case "respectful consideration."

The Army argued that the Panel should give great deference to the decision of the Contracting Officer. The Panel majority disagreed with that argument. While there was no disagreement that the Army had full authority to have its own cooks handle food preparation and manage the dining facility, the issue was whether the Army's conclusion that the remaining work was not covered by the Act was correct. The Panel determined that resolution of the issues in this case involved statutory interpretation, and, because the Department is charged with interpreting the Act, by extension, so is the Panel.

The remaining question then was whether the Act was intended to apply to the discrete dining facility attendant services that were to be provided at the dining halls at Fort Campbell. The Panel majority noted that because interpretations had changed over the years, to understand what the Act, as it stands today, was intended to cover, it had to explore this history. As a result, the Panel reviewed and discussed the 1974 Amendments, various pronouncements from the Department and the Comptroller General's various court decisions, the relationship between the Act and the Javits-Wagner-O'Day Act (JWOD), and the passage of the National Defense Authorization Act of 2007 (NDAA).

The majority ultimately concluded the Act applies to this solicitation at Fort Campbell. In reaching that conclusion, the Panel rejected the Army's assertion that *Washington State Department of Services for the Blind v. United States*, 58 Fed. Cl. 781 (2003), was binding on the Panel. The Panel determined that the *Washington* case was limited to just "busboy" services, whereas the Fort Campbell solicitation also involved food handling. The Panel also discussed the impact of the NDAA and the interplay between the services covered by the Act and JWOD. In determining that the NDAA defined food services to include mess attendant services, the Panel concluded that this "impliedly indicated those services are covered by the [Act]."

Finally, in rejecting the argument that the NDAA did not apply because the contract in effect at Fort Campbell was not awarded under the Act, the Panel concluded that the NDAA was still a "pronouncement by Congress as to the coverage of the [NDAA] and is, therefore, a significant factor here." The Panel then concluded that had the Army complied with the earlier arbitration

panel ruling in 2002, "the contract for [mess attendant] services in 2006 would have been issued under the [Act]."

For the reasons stated in the decision, the Panel found that the Army violated the Act when it issued the solicitation for Dining Facility Attendant Services at Fort Campbell without applying the provisions of the Act to the Army's source selection process. In terms of a remedy, the Panel recognized that the Act requires that, when a violation has been found, the Federal agency must "cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel." The Panel directed the Army to notify the current contractor that its contract would not be renewed at expiration and to begin negotiations with the SLA for services to commence upon the expiration of the current contract.

One panel member concurred in part and dissented in part.

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Dated: April 13, 2017.

**Ruth E. Ryder,**

*Deputy Director, Office of Special Education Programs, delegated the duties of the Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2017–07858 Filed 4–18–17; 8:45 am]

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## DEPARTMENT OF EDUCATION

### List of Correspondence From July 1, 2015, Through September 30, 2015, and October 1, 2015, Through December 31, 2015

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is publishing the following list of correspondence from the U.S. Department of Education (Department) received by individuals during the third and fourth quarters of 2015. The correspondence describes the Department's interpretations of the Individuals with Disabilities Education Act (IDEA) or the regulations that implement the IDEA. This list and the letters or other documents described in this list, with personally identifiable information redacted, as appropriate, can be found at: [www2.ed.gov/policy/speced/guid/idea/index.html](http://www2.ed.gov/policy/speced/guid/idea/index.html).

**FOR FURTHER INFORMATION CONTACT:** Jessica Spataro or Mary Louise Dirrigl. Telephone: (202) 245-7605.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you can call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain a copy of this list and the letters or other documents described in this list in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting Jessica Spataro or Mary Louise Dirrigl at (202) 245-7605.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from July 1, 2015, through September 30, 2015, and October 1, 2015, through December 31, 2015. Under section 607(f) of the IDEA, the Secretary is required to publish this list quarterly in the **Federal Register**. The list includes those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law. The list identifies the date and topic of each letter and provides summary information, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been redacted, as appropriate.

**Part A—General Provisions***Section 602—Definitions*

Topics Addressed: Individualized Education Program; Individualized Family Service Plan

○ Dear Colleague Letter dated July 6, 2015, regarding the role of speech language pathologists and other professionals in determining appropriate services for infants, toddlers, and children with autism spectrum disorder.

**Part B—Assistance for Education of All Children With Disabilities***Section 612—State Eligibility*

Topic Addressed: Free Appropriate Public Education

○ Dear Colleague Letter dated November 16, 2015, clarifying that individualized education program (IEP) Teams must ensure that annual IEP goals are aligned with the State's academic content standards for the grade in which the child is enrolled.

Topic Addressed: Confidentiality

○ Letter dated November 23, 2015, to Alabama attorney Julie J. Weatherly, regarding requirements that govern the destruction of information collected, maintained, or used under Part B of the IDEA.

Topic Addressed: Children Enrolled in Private Schools by Their Parents

○ Letter dated July 6, 2015, to New York attorney Edward Sarzynski, regarding the requirements in Part B of the IDEA that apply when parents from other countries enroll their children with disabilities in private schools.

○ Letter dated November 23, 2015, to New Jersey attorney Michael I. Inzelbuch, clarifying whether a local educational agency (LEA) may use a portion of the funds it must spend to provide equitable services to children with disabilities placed by their parents in private schools to pay the costs of a settlement agreement.

Topic Addressed: State Educational Agency (SEA) General Supervisory Authority

○ Letter dated July 16, 2015, to Michigan Protection and Advocacy Services, Inc., Director of Public Policy Mark McWilliams, regarding the resolution of State complaints under Part B of the IDEA that allege that a public agency has not implemented a behavioral intervention plan.

○ Letter dated September 18, 2015, to education advocate Marcie Lipsett, clarifying an SEA's responsibility to issue a written decision on a State complaint under Part B of the IDEA even if the SEA accepts an LEA's proposed resolution of the complaint.

*Section 613—Local Educational Agency Eligibility*

Topic Addressed: Maintenance of Effort

○ Letter dated November 23, 2015, to New Mexico Public Education Department, Director of Special Education Michael Lovato, regarding the exception to the LEA maintenance of effort requirement due to the voluntary

or just cause departure of special education or related services personnel.

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements*

Topic Addressed: Eligibility Determinations

○ Dear Colleague Letter dated October 23, 2015, regarding evaluations, eligibility determinations, and IEPs for children with dyslexia, dyscalculia, or dysgraphia.

*Section 615—Procedural Safeguards*

Topic Addressed: Impartial Due Process Hearings

○ Letter dated September 16, 2015, to Illinois attorney Matthew D. Cohen, regarding various issues arising in due process complaints, resolution sessions, and due process hearings, including whether an LEA can unilaterally amend a child's IEP during a resolution meeting on a due process complaint and present that IEP as evidence in a subsequent due process hearing on that complaint.

○ Letter dated December 9, 2015, to Lehigh University Professor of Education and Law Perry A. Zirkel, regarding the statute of limitations for filing a request for a due process hearing.

○ Letter dated December 13, 2015, to California attorney Colleen A. Snyder, regarding the application of the expedited due process hearing procedures.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 13, 2017.

**Ruth E. Ryder,**

*Deputy Director, Office of Special Education Programs, delegated the duties of the Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2017-07857 Filed 4-18-17; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Early Childhood Systems Technical Assistance Center

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Early Childhood Systems Technical Assistance Center, Catalog of Federal Domestic Assistance (CFDA) number 84.326P.

**DATES:** *Applications Available:* April 19, 2017.

*Deadline for Transmittal of Applications:* June 5, 2017.

*Deadline for Intergovernmental Review:* August 2, 2017.

**FOR FURTHER INFORMATION CONTACT:** Julia Martin Eile, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington, DC 20202-5108. Telephone: (202) 245-7431.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

#### Full Text of Announcement

#### I. Funding Opportunity Description

*Purpose of Program:* The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

*Priority:* In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1463 and 1481)(d)).

*Absolute Priority:* For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

*Early Childhood Systems Technical Assistance Center.*

*Background:*

To improve outcomes for, and protect the rights of, infants, toddlers, and preschool children (young children) with disabilities and their families, States must have effective systems<sup>1</sup> for implementing IDEA and providing high-quality services under Part C and Part B, section 619. Effective systems must include implementation supports<sup>2</sup> that enable local programs and practitioners to implement, with fidelity, services and interventions<sup>3</sup> supported by evidence (as defined in this notice). The majority of States, however, have identified areas for improvement within their systems (Lucas et al., 2015), and local programs often lack necessary implementation supports.

States can use the State Systemic Improvement Plan (SSIP),<sup>4</sup> a comprehensive, multiyear plan that is focused on improving a State-identified measureable result (SIMR), to plan how to enhance their systems to better implement IDEA and interventions

<sup>1</sup> For the purpose of this priority, “systems” include: governance; finance; personnel and workforce; data; accountability and quality improvement; and quality standards (The Early Childhood Technical Assistance Center, 2015).

<sup>2</sup> For the purpose of this priority, “implementation supports” include: professional development and training; ongoing consultation and coaching; performance assessments; data systems to support decision making; administrative supports; and systems interventions to align policies and funding mechanisms across multiple levels of a system (Fixsen, Blasé, Naoom, & Wallace, 2009).

<sup>3</sup> For the purpose of this priority, “interventions” include the Division for Early Childhood (DEC) recommended practices. The DEC recommended practices bridge the gap between research and practice, providing guidance to families of young children with disabilities and practitioners who work with them. The practices have been shown to result in better outcomes for young children with disabilities, their families, and the professionals who serve them (Division for Early Childhood, 2014).

<sup>4</sup> Each State was required to submit an SSIP as part of its State Performance Plan/Annual Performance Report beginning in Federal Fiscal Year 2013. Each State identified a SIMR under Parts C and B of IDEA.

based on evidence. States reported in their SSIPs multiple challenges that affect States’ abilities to successfully implement their SSIPs, including the high turnover of State administrators and limited collaboration across those agencies that are part of delivering high-quality inclusive programs.<sup>5</sup>

In order to increase high-quality inclusive opportunities for children with disabilities, State IDEA Part C and Part B, section 619 coordinators must be active collaborators with other early childhood systems (e.g., home visiting programs, Head Start programs, child care programs, public preschool programs) and engage in broader early childhood initiatives within the State. Further, IDEA Part C and Part B, section 619 coordinators report that they are often not included as partners on State and local leadership teams that are developed to address broader early childhood initiatives, but that collaboration with their IDEA counterparts is necessary for developing and increasing access and meaningful participation in inclusive settings for young children with disabilities.

This priority will fund a cooperative agreement to establish and operate a national Early Childhood Systems Technical Assistance Center (Center). The Center will provide TA to States to enable them to maintain high-quality systems with implementation supports to implement IDEA consistent with its requirements and to provide high-quality IDEA services for young children with disabilities and their families. The Center will work with IDEA Part C and Part B, section 619 coordinators to increase their competencies to lead systemic improvements and work collaboratively with other early childhood systems to increase access to, and participation in, high-quality inclusive programs for young children with disabilities.

#### *Priority:*

The purpose of this priority is to fund a cooperative agreement to establish and operate an Early Childhood Systems Technical Assistance Center to achieve, at a minimum, the following:

<sup>5</sup> IDEA Part C requires that, to the maximum extent appropriate, factoring in each child’s routines, needs, and outcomes, early intervention services be made available to all eligible infants and toddlers with disabilities in “natural environments,” including the home and community settings in which children without disabilities participate. IDEA Part B, section 619 requires that to the maximum extent appropriate, all children with disabilities, including preschool children with disabilities, must be educated in the least restrictive environment, and removal from the regular education environment occurs only if the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.