



STATE OF ALABAMA
DEPARTMENT OF EDUCATION



Joseph B. Morton
State Superintendent
of Education

Alabama
State Board
of Education

October 23, 2006


Governor Bob Riley
President

MEMORANDUM

Randy McKinney
District I
President Pro Tem

TO: City and County Superintendents of Education
City and County Special Education Coordinators
Directors of State-Supported/State-Operated Agencies
Special Education Coordinators of State-Supported/State-Operated Agencies

Betty Peters
District II

FROM: Joseph B. Morton 
State Superintendent of Education

Stephanie W. Bell
District III

SUBJECT: Final Regulations for Implementing the *Individuals With Disabilities Education Improvement Act of 2004*

Dr. Ethel H. Hall
District IV
Vice President
Emerita

As you know, the final regulations for implementing the *Individuals With Disabilities Education Improvement Act of 2004*, were issued on August 14, 2006, became effective Friday, October 13, 2006. In 2005, the State Department of Education (SDE) revised its *Alabama Administrative Code (AAC)* to incorporate the changes required by the *Individuals With Disabilities Education Act of 2004 (IDEA)* amendments. The SDE is in the process of preparing an initial draft of the AAC incorporating the 2006 final regulations. The Special Education Services (SES) Section is anticipating making final edits for Alabama State Board of Education consideration and public comment in March 2007. Once SES has a revised AAC, the SES staff will provide regional training on the new AAC and how to write an acceptable Local Education Agency (LEA) Plan. Please see below the implementation requirements that are in effect using one example.

Ella B. Bell
District V

David F. Byers, Jr.
District VI

Sandra Ray
District VII
Vice President

Dr. Mary Jane Caylor
District VIII

1. When there is a difference in requirements between the federal law and its regulations and the state code, the requirement that provides more protection to the child and parents is the requirement that must be implemented. For example the state code requires the department to investigate 60-day special education complaints for up to three years from the date the complaint was filed, but the new federal requirements limit such investigations to one year. Until the state code is revised, the department must continue to investigate for up to three years.
2. When there is conflict between the final federal regulations and the AAC, the final federal regulations supersedes the AAC and must be implemented. For example, the federal regulations require the department to provide a sample form for filing a 60-day

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Secretary and
Executive Officer

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special education complaint. The state code is silent on this since it was not required in the 1999 federal regulations. The state must provide a sample form, but according to the federal regulation, it is not required that parties filing complaints use the form. A sample form will be available on our Web site soon.

3. Some changes in the new federal regulations are clarifications that must be implemented. For example, in the discipline section of the federal regulations, there is a clarification that the state procedural safeguards must be provided only when a change of placement is proposed, rather than each time a notice is provided regarding disciplinary action as indicated in the IDEA statute.

The above information applies until our AAC is revised and reflects all the changes and clarifications provided in the final federal regulations of 2006. SES anticipates having a new AAC no later than July 1, 2007. SES provided each LEA with a copy of the new regulations in a side-by-side version at the Fall Leadership Conference. A link to the *Code of Federal Regulations* is available at <http://www.gpoaccess.gov/cfr/index.html>; at this site, do a quick search for 34CFR Part 300 and download the document.

Should you have questions, please call your contact person in Special Education Services at (334) 242-8114.

JBM/CR/GMT

cc: Dr. Ruth C. Ash
Mr. Feagin Johnson, Jr.
Dr. Mabrey Whetstone
Ms. Crystal Richardson

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