

**CONNECTICUT STATE DEPARTMENT OF EDUCATION
HARTFORD**

Series 2003-2004
Circular Letter C-1

TO: Superintendents of Schools
Directors of Special Education
Special Education Impartial Hearing Officers
Special Education Attorneys
Connecticut Parent Advocacy Center (PTI)
Special Education Resource Center

FROM: Theodore S. Sergi, Commissioner of Education

DATE: July 3, 2003

SUBJECT: State Eligibility for the IDEA Part B grant for federal fiscal year 2003

The Office of Special Education Programs (OSEP) of the Federal Department of Education has been engaged in an ongoing review of Connecticut's statutes and regulations relating to the provision of special education services to eligible students. OSEP has identified what they regard as state statutory "inconsistencies" with the IDEA requirements. To remain eligible for federal financial assistance for the upcoming fiscal year, the State has been directed by OSEP to issue this memo advising all interested parties to abide by the requirements as set forth by OSEP in various memos to the State Department of Education (SDE). Accordingly, effective immediately, the following requirements shall be followed by all interested parties:

1. Section 10-76h(a)(1) of the Connecticut general statutes requires that neither party to an impartial due process hearing may proceed to such hearing without first raising their issues at a planning and placement team meeting. Neither party to a due process hearing may use this requirement to bar the other party from exercising their right to a due process hearing on any matter related to the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education to that child pursuant to 20 USC Sec. 1415(b)(6) and 34 CFR Sec. 300.507.
2. Special education hearing officers are hereby instructed that they shall not use the PPT requirement to prohibit parties from raising, in a due process hearing, an issue that was not raised in a PPT meeting. This does not prevent a hearing officer from ordering the parties to reconvene a PPT if deemed appropriate.
3. Section 10-76h(a) requires that school districts initiate due process proceedings against parents in the event the parent revokes or refuses consent for their child to be placed in a private school as recommended by the PPT. School districts shall not use the due process procedures to override parental refusal to consent to the initial provision of special education and related services in a private facility. The override provision is available

only in the event that the parent has already consented to the receipt of special education and related services and subsequent to initial placement of the child, the district seeks a private school placement.

4. Section 10-76h(d)(4) sets criteria for the submission of evidence upon appealing a special education due process hearing decision to Superior Court pursuant to the provisions of Section 4-183. The court shall hear additional evidence at the request of a party notwithstanding the criteria set forth in Section 10-76h(d)(4).

The State has provided a written assurance to OSEP that these interim requirements shall be enforced by the SDE pending the adoption of legislation by the Connecticut General Assembly. Each school district shall include this Circular Letter as an addendum to the procedural safeguards document currently provided to parents. Also, school districts shall include this Circular Letter in their policies and procedures manual and ensure that all district staff are sufficiently familiar with these requirements so as to advise parents appropriately.

We will continue to explore ways to make special education due process less litigious and more helpful for all parties. We are hopeful that our discussions with OSEP have broadened their perspective on these issues and changes will be considered in the context of the pending IDEA reauthorization legislation. In the meantime, we welcome your ideas on improving special education due process proceedings.

If you have any questions regarding this information, please contact Theresa C. DeFrancis at (860) 807-2018.

TSS:tcd

cc: George Coleman, Associate Commissioner
George Dowaliby, Bureau Chief