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Special Delivery

A Newsletter for Special Educators and School Administrators

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A Note From Jim

With August behind us and September upon us, the new school year has begun and has quickly kicked into high gear. School years have beginnings - a chance to make fresh starts. This is so not just for students, but also for teachers, administrators and other school staff.

This year, the federal government has provided schools with an even greater opportunity to make a fresh start, by releasing the final IDEA regulations. Although releasing the new regulations just before the school year begins imposes a burden on school officials, the release of the regulations (and the effective date of the revisions to Missouri special education statutes) also provides school districts an opportunity to review and revise their policies, procedures and practices with respect to special education.

Look for articles in upcoming editions of Special Delivery on specific changes brought by the new regulations. Please also join us at the **MO-CASE 29th Annual Special Education Administrators' Conference**, September 24-26 at the Tan-Tar-A Resort in Lake of the Ozarks, for an in depth look at the new regulations, as well as many other helpful workshops. For more information and to register, visit <http://www.mo-case.org/>.

Unfortunately, with all of the focus on statutes and regulations, we sometimes lose sight of the real reason that we do this - to help children with disabilities. My guess is that many of you have heard me relate this story before. I hearken back to one of first due process hearings. During my cross-examination of her, a sobbing mother stopped in mid-answer and said words to the following effect: "All I want is for my son to look at me some day and say, 'I love you, Mom.' Is that too much to ask?"

The educational programs that you develop and implement affect so many people on so many levels. I am proud to say that the special educators that I know live up to the special task with which they are entrusted. Further, special educators that I know share the wish of the mother - and, if given the chance, will work tirelessly to help children with disabilities to realize those dreams.

And so, with the beginning of the 2006-07 school year, we salute you!

National Special Education Teacher Shortage

A recently published study addressing the availability of special education certified teachers nationally is not encouraging. The study found schools are losing ground in their attempts to find certified special education teachers. The shortage has increased from 7.4% in 1993-94 to 12.9% in 2001-02. During this same time frame, the need for additional special education certified teachers increased from 25,000 to 49,000. In addition, only 44.4% of entering special education teachers were fully certified and only 53.1% of the first-time entering special education teachers with extensive teacher preparation were fully certified. The full study is, Boe, E. E. and Cook, L. H., The chronic and increasing shortage of fully certified teachers in special and general education, *Exceptional Children*, 72, 4, 443-460 (2006).

Have a question about the IDEA or Section 504? Submit your questions to Alefia@tflaw.com

Quote of the Month

Home computers are being called upon to perform many new functions, including the consumption of homework formerly eaten by the dog.

~Doug Larson

The information presented in this newsletter is published by the Thomeczek Law Firm, LLC to provide general information. It should not be construed as legal advice or as a substitute for advice based upon particular factual issues. The reader is directed to contact their school attorney for specific legal advice.

Under Missouri Supreme Court Rules, this letter may be considered to be an **ADVERTISEMENT**.

NIMAS Is Here!

On July 19, 2006, the U.S. Department of Education published NIMAS. What's NIMAS, you say? It's the National Instructional Materials Accessibility Standard. Mandated by IDEA 2004, the purpose of NIMAS "is to help increase the availability and timely delivery of print instructional materials in accessible formats to blind or other persons with print disabilities in elementary and secondary schools." NIMAS is defined by IDEA 2004 to be the standard "used in preparation of electronic files suitable and used solely for efficient conversion into specialized formats." NIMAS is further described in the regulation as a "standard for digital source files that can be used to accurately and reliably produce instructional materials in a variety of alternate formats using the same source file." Basically, NIMAS is a standard file format for instructional materials. School districts are required to provide assurance to the Missouri Department of Elementary and Secondary Education (DESE) that they will "adopt" NIMAS. (IDEA 2004 does not define "adopt". An April 2006 letter from DESE to school superintendents included a copy of the assurance.)

How will NIMAS be used in real life? At the same time it mandated NIMAS, IDEA 2004 created NIMAC, the National Instructional Materials Access Center. NIMAC, which is scheduled to begin operation in December 2006, will be a repository to collect and store all NIMAS files and make them available to states so that authorized users can convert them to accessible textbooks.

How will NIMAS files get to NIMAC? State and local educational agencies must choose whether to "coordinate" with NIMAC. For those that do, as part of any process to purchase print instructional materials, the agency must (1) enter into a contract with the publisher that requires the publisher to provide NIMAC electronic files of the materials or, (2) purchase materials from the publisher that are "produced in, or may be rendered in, specialized formats." Presumably, NIMAS files may also be voluntarily provided to NIMAC.

Who will have access to materials stored by NIMAC? There isn't a final answer to that question, but it appears direct access will be limited. So, rather than having direct access, local school districts may have to work through their state educational agency.

What does a school district have to do? In addition to providing assurance to DESE that it will "adopt" NIMAS, a district must decide whether it will "coordinate" with NIMAC. If it does, see paragraph 3. If it does not, the school district must assure DESE that it will provide instructional materials to persons with disabilities "in a timely manner." (The April 2006 DESE letter contains this assurance, also.)

You can get more information about NIMAS and NIMAC at www.nimac.us or www.afb.org (Click on "Education" under "Learn About").

Public School Performance Compared to Private School Performance

The US Department of Education released a study on July 14, 2006 that compares the mean 2003 National Assessment of Educational Progress (NAEP) reading and mathematics scores of public and private schools in 4th and 8th grade. Looking only at mean scores it would appear that students in private schools performed significantly higher than public school students. However, when variables related to individual student characteristics such as gender, race, disability, and English language learner status, and variables related to school characteristics such as school size, location, and the composition of the student body were statistically controlled, the average for public schools was significantly higher than the average for private schools for grade 4 mathematics and not significantly different for reading.

At grade 8, the average for private schools was significantly higher than the average for public schools in reading but not significantly different for mathematics. The complete study, Comparing Private Schools and Public Schools Using Hierarchical Linear Modeling, can be accessed at: <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2006461>.