

PENNSYLVANIA DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

November 2, 2017

Penn*Link

TO: School District Superintendents
School District Special Education Directors
Charter School Chief Executive Officers
Charter School Special Education Directors
Intermediate Unit Executive Directors
Intermediate Unit Special Education Directors
Approved Private School Executive Directors
Approved Private School Special Education Directors

FROM: Ann Hinkson-Herrmann, Director
Bureau of Special Education

SUBJECT: Clarifications Regarding Documents Rescinded by the U.S. Department of Education

On Friday, October 20, 2017, the U.S. Department of Education (USDE) announced that 72 guidance documents related to the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 have been rescinded. USDE has stated that these documents were outdated, unnecessary, or ineffective.

Historically, USDE's Office of Special Education Programs (OSEP) has not rescinded such documents, dating as far back as the 1980s. USDE's action of rescinding these guidance documents has generated questions from the field regarding the potential and impact on Pennsylvania's students with disabilities, their families, and school systems. Please be assured that USDE's rescission of these guidance documents does not change Pennsylvania's policies, practices, and procedures related to federal statutes or regulations for special education. The Pennsylvania Department of Education (PDE) continues to review the documents to confirm that rescission of these documents will have no negative impact on students.

While PDE continues to review the guidance documents, on October 24, 2017, USDE gave further clarification and assurance related to the intents and purposes of the rescinded documents summarized below:

Of the 72 documents rescinded, 63 of those documents are tied to IDEA. The documents which have been rescinded do not have substantive purpose and are no longer relevant or purposeful as guidance to IDEA. These documents were considered guidance and were not regulatory in nature.

The rescinded documents fall into several broad categories, which are described below:

- (1) Annual Program Memos (Documents that contained specific due dates for past submissions. Examples: OSEP memo 99-01, 99-04, 00-17)
- (2) Superseded Guidance (Documents in which more current guidance has been disseminated. Examples: 85-09, 85-19)

- (3) Guidance after IDEA reauthorization of 1997 and 2004 (Documents contained guidance after the reauthorization statutory changes, but prior to the new regulations being published. Examples: 98-01, 98-08, 2005 Dear Colleague Letter, 2006 Q & A)
- (4) Transmittal Memos (Documents that were time sensitive in the past but no longer have merit. Examples 98-13, 99-11, and 05-10)
- (5) Memos referencing other Statutes, not IDEA (Documents contained outdated or limited issues. Examples: 93-16, 02-10)

USDE Regulatory Reform Status Report, which offers a list of documents by title, date issued, and the specific reason for rescinding, is available in full on the Pennsylvania Training and Technical Assistance Network (PaTTAN) website, www.pattan.net. Choose the legal tab on the homepage to access the document.

In addition, USDE has clarified that the rescission of these documents is the first phase in a multi-stage review of all OSEP documents. It was noted by OSEP that documents reviewed in Phase Two are expected to be of greater substantive value. Therefore, Pennsylvania will continue to actively monitor and review all releases from USDE/OSEP.

This Penn*Link reaffirms that the deletion of these documents does not create any change in Pennsylvania's policies, practices, and procedures related to federal statutes or regulations for special education. Pennsylvania's local educational agencies, which includes both school districts and charter schools, must continue to comply with all federal and state regulations as found in IDEA and Chapters 14 and 711.

If you have any questions regarding this information, please contact John Gombocz, Special Education Adviser for Policy, at 717.783.2311 or jgombocz@pa.gov.