

CLIENT NEWS BRIEF

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**FEDERAL REGULATIONS AMENDED TO CLARIFY AND STRENGTHEN
THE NO CHILD LEFT BEHIND ACT OF 2001**

The United States Department of Education (“DOE”) released new regulations governing programs administered under Title I of the Elementary and Secondary Education Act of 1965 (“ESEA”), as amended by the No Child Left Behind Act of 2001 (“NCLB”). The regulations focus on improving high school graduation rates, parental notification of Supplemental Education Services (“SES”), public school choice, and assessment and accountability.

Graduation Rates

A significant change in the new regulations is how states, local education agencies, and schools are held accountable for graduation rates. To this end, the regulations now define the “four-year adjusted cohort graduation rate” as the number of students who graduate in four years with a regular high school diploma divided by the number of students who entered high school four years earlier.

The new regulations specify the process by which students will be removed from a cohort. To remove a student from a cohort, a district must confirm in writing with the appropriate party that the student has transferred out of the school, immigrated to another country, or is deceased. When a student transfers out of a school, the student will be removed from the cohort after the school has obtained official written documentation of the student’s enrollment in another school or educational program that awards regular high school diplomas.

School districts will now be responsible for reporting the “four-year adjusted cohort graduation rate” on the school accountability report cards providing the results of assessments administered during the 2010-2011 school year. Beginning with these school accountability report cards, aggregated and disaggregated graduation rates for all required subgroups must also be reported.

Lastly, the “four-year adjusted cohort graduation rate” impacts the method by which adequate yearly progress (“AYP”) will be evaluated. Under the new regulations, schools and districts must meet or exceed the state’s graduation rate goal or demonstrate continuous and substantial improvement from the prior year toward meeting that goal to make AYP.

Supplemental Education Services (SES) and Public School Choice

The new regulations amend school districts’ obligations to provide information regarding SES providers and public school choice to parents with children enrolled in schools identified for program improvement. First, no later than fourteen days before the start of the school year, school districts must notify parents of eligible children of the option to transfer their child to another public school not identified for program improvement. Second, this notification must be clear, concise, and distinguishable from other school-related information that is provided to parents. Third, school districts are now required to include the following information regarding SES options and public school choice on their websites:

- Beginning with data from the 2007-2008 school year, the number of students who were eligible for and who participated in SES and public school choice;
- A list of SES providers approved to serve the district;
- The locations where approved SES providers offer services during the current school year; and
- A list of schools to which students eligible for public school choice may transfer for the current school year.

If a local educational agency (“LEA”) does not have a website, the state educational agency is required to include the information otherwise required of LEAs on its website.

The regulations also impact districts’ expenditures of Title I, Part A funds allocated for choice-related transportation and SES (see 20 U.S.C. § 6316(b)(10)). School districts are now permitted to count a portion of the costs associated with parent outreach related to SES and public school choice towards the 20% of Title I, Part A funds allocated for choice-related transportation and SES. Prior to using unspent portions of the 20% of Title I, Part A funds for other allowable activities, to the extent possible, districts must partner with outside groups to help inform students and parents of the opportunities to transfer to another public school or receive SES, ensure that students and parents have had a genuine opportunity to transfer to another school or obtain SES, and ensure that SES providers are given equal access to school facilities.

Assessment, Accountability and Transparency

Under the new regulations, states and districts are required to include the most recent National Assessment of Educational Progress (“NAEP”) reading and mathematics results on their school accountability record cards. Additionally, accountability report cards must now include the participation rates of limited English proficiency students and students with disabilities.

Because the amendments are extensive, we do not review all of them here, but invite you to contact one of our seven offices statewide if you have questions about how these amendments may affect your school district.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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