

LOUISIANA HOUSE OF REPRESENTATIVES

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JOHN M. SCHRODER, SR.
State Representative ~ District 77

*Chairman of Homeland Security
*Appropriations
*Joint Legislative Committee
on the Budget
*House & Governmental Affairs
*Military & Veterans Affairs
*House Executive Committee
*Task Force on Legal
Representation in Child
Protection Cases

August 12, 2014

Michael Yudin, Assistant Secretary
Office of Special Education and Rehabilitative Services
United States Department of Education

Deborah Delisle, Assistant Secretary
Office of Elementary and Secondary Education
United States Department of Education

Dear Acting Assistant Secretary Yudin and Assistant Secretary Delisle:

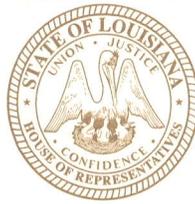
The concerns expressed in United States Department of Education (USDOE) letter dated July 2nd to John White and during discussions with advocates in Louisiana regarding implementation of Act 833 (HB 1015) have created some confusion as to the intent and/or purpose of the concerns expressed by the USDOE. Specifically, the USDOE letter expresses concerns of how academic standards required under the Elementary and Secondary Education Act (ESEA) are applied to decisions and requirements for student grade promotion and graduation. ESEA defines the "regular high school diploma" as "the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards..." Louisiana parents and educators have been operating with the understanding that all students with disabilities, even students with the most significant disabilities, have Individualized Education Programs (IEPs) that are aligned with the state academic content standards. In fact, ESEA requires that even the alternate assessment for students with the most significant disabilities pursuing extended standards are to be aligned with the state's college- and career-ready standards.

So everyone agrees that ESEA and the Individuals with Disabilities Education Act (IDEA) require all programs to be aligned with the standards. It is my understanding that federal law does not require States to establish student grade promotion or graduation requirements that utilize the same student performance levels on grade-level academic standards that are required for school accountability purposes under ESEA.

Instead, school and student accountability systems have been interpreted and implemented separately in most states, particularly as they relate to students with disabilities. To clarify the understanding of the seemingly new interpretation from USDOE as expressed in the USDOE letter to Superintendent White regarding how academic standards, assessments, and

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proficiency levels adopted by States for the purposes of school accountability relate to student promotion and graduation requirements, I am requesting the USDOE's responses to the following questions:

1. Does the ESEA or any federal law require States to establish student grade promotion or graduation requirements that utilize the same student performance levels on grade-level academic standards that are required for school accountability purposes under ESEA?
Yes No
If yes, please provide the citation and reference.

2. If a state does have requirements for students to meet certain proficiency levels (i.e., established under ESEA for school accountability purposes) for promotion or graduation purposes, must students with disabilities be held to the same performance requirements or be retained or not permitted to graduate?
Yes No
If yes, please provide the citation and reference specific to the use of performance requirements for promotion and graduation.

3. Considering ESEA requires states to adopt content standards, assessments and proficiency levels at each grade level for school accountability purposes, if the state chooses to use those assessments for the purposes of 'high-stakes' for students as a requirement for promotion or graduation, is it USDOE's position, as is stated in the July 2nd letter, that the state cannot permit students with disabilities to graduate unless they pass the State assessments and meet the benchmarks that other students are required to meet?
Yes No
 - A. If yes to Number 3, please respond to the following two questions, otherwise skip to questions in section B):
 - I. Is the USDOE aware of states that have graduation requirements for students to pass the standardized academic assessments but allow exemptions for students with disabilities to meet this requirement?
Yes No
 - a. If yes, please provide any correspondence and related sanctions sent to or imposed upon these states from the past ten years.
 - b. If no, please refer to a couple of examples:

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- Arizona <http://www.azed.gov/special-education/files/2013/05/graduation-and-students-with-disabilities-parents4.pdf>

- California <http://www.cde.ca.gov/ta/tg/hs/cahseefaqexempt.asp>

As this is not an exhaustive list of states with this type of exemption from the assessment requirement, how does the USDOE reconcile the differences between the precedent established for over a decade in interpretation and enforcement of ESEA and IDEA and its new position on promotion and graduation?

- II. Is the USDOE aware of states that explicitly indicate students with disabilities may receive a diploma without meeting the graduation requirements for the general education program if they meet their IEP goals and graduation requirements by their IEPs?

c. If yes, please provide any correspondence and related sanctions sent to or imposed upon these states from the past ten years.

d. If no, please refer to a couple of examples:

- Iowa <https://www.educateiowa.gov/resources/laws-and-regulations/legal-lessons/diploma-requirements-certificates-and-students>

“In certain cases, special education students may receive a diploma without meeting the graduation requirements for the general education program if they meet their Individualized Education Program goals and graduation requirements set by their IEPs.”

- Missouri
http://dese.mo.gov/divimprove/sia/documents/Graduation_Handbook_2010.pdf

“Any specific graduation requirement may be waived for a disabled student if recommended by the student’s IEP Committee.”

- New Jersey
<http://www.state.nj.us/education/code/current/title6a/chap14.pdf>

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"6A:14-4.11 Graduation

(a) The IEP of a student with a disability who enters a high school program shall specifically address the graduation requirements. The student shall meet the high school graduation requirements according to N.J.A.C. 6A:8-5.1(c), except as specified in the student's IEP. The IEP shall specify which requirements would qualify the student with a disability for the State endorsed diploma issued by the school district responsible for his or her education."

As this is not an exhaustive list of states with this type of IEP determination of graduation requirements, how does the USDOE reconcile the differences between the precedent established for over a decade in interpretation and enforcement of ESEA and IDEA and its new position on promotion and graduation?

B. If no to Number 3, then please provide clarity as to the concerns of the USDOE related to Act 833.

4. Is USDOE aware of students with significant cognitive disabilities who graduated with a regular high school diploma and subsequently defaulted on federal or private student loans as indicated by Mr. Yudin on the August 1st phone call with Superintendent John White and advocates from Louisiana?

Yes No

If yes, please provide list of states with:

- a. Students with significant cognitive disabilities graduating from high school and the number and percentage of students with significant disabilities graduating from those states;
- b. Instances of improper lending practices to high school graduates with significant cognitive disabilities; and,
- c. Students with significant cognitive disabilities defaulting on student federal and/or private loans.

5. Is USDOE aware of charges brought against states or school systems for denying a student a Free and Appropriate Public Education (FAPE) related to the State's

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regulations and/or rules that allowed the student's IEP team to determine graduation requirements?

Yes No

If yes, please provide the list of states and/or school systems and related information regarding these charges.

Sincerely,

A handwritten signature in cursive script that reads "John M. Schroder".

Louisiana State Representative John M. Schroder

JMS/acb

cc Steve Scalise