

More Federal School Guidance Documents Come off the Ledger

PUBLISHED ON

October 31, 2017

The federal government has wiped away a host of special education guidance documents created over the past 30 years that it deemed antiquated.

The U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) announced on October 20 that 72 special education [guidance documents](#) were rescinded for being "outdated, unnecessary or ineffective." Secretary of Education Betsy DeVos followed up with another announcement late last week that additional [guidance documents](#) issued by prior administrations are also being rescinded.

In June, the [department issued request for public comment](#) on regulations that may be appropriate for repeal, replacement or modification.

In response to criticism regarding the process for announcing these changes, the department has stressed that special education guidance documents rescinded will not compromise services provided to students with disabilities. The majority of the rescinded guidance were issued by the Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA) in the 1990s and 2000s, and have more recently been revised or superseded by state and federal regulations.

The department also is considering delaying the ["Equity in IDEA" rule proposed in February 2016](#) that would require states to establish a standard method to determine if school districts have disparities in how they identify, place or discipline minority students with disabilities.

While members of the disability rights community have voiced concerns over these recent actions, it is important to remember that the Individuals with Disabilities Education Act (IDEA) protects the substantive regulations, including parental consent to initiate evaluation or initial placement in special education, least restrictive environment and applicable timelines. The IDEA states that regulations "cannot be procedurally or substantively lessened without the clear and unequivocal intent of Congress in legislation."

We will continue to monitor developments and provide additional updates as appropriate. If you have any additional questions, contact any of the attorneys in [Barley Snyder's Education Law Practice Group](#).