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### **Department of Education Proposes Amendments to Special Education Code**

Commissioner of Education Dr. Vito A. Gagliardi, Sr. today proposed to the State Board of Education amendments to the state's special education administrative code. These amendments are designed to respond to a recent ruling by the Appellate Division of Superior Court. The court upheld the vast majority of the 39 items contested by the plaintiffs in the case, requiring only that eight changes be made in the special education regulations.

"It is important to note that the appeals court upheld most of the our administrative code governing special education," said Dr. Gagliardi. "We are proposing these changes so that we will be following the court requirements to the letter."

The proposed amendments provide for the following eight corrective measures:

- Any employee of any public or nonpublic agency that is involved in education or care of the child is excluded from consideration as a surrogate parent in order to ensure that there is no conflict of interest in representing the child's educational needs;
- Provides that a copy of the procedural safeguards statement be disseminated to parent training and information centers, protection and advocacy agencies and other appropriate agencies in order to ensure that the complaint procedures are widely disseminated to parents and other individuals;
- Clarifies that the disciplinary procedural safeguards apply to children not yet eligible for special education. Accordingly, parents may assert any of the protections provided for in this subchapter if the district had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred;
- Restores the regulation in the previous special education code that required an assessment to determine appropriate post-secondary outcomes as part of transition services planning;
- Requires that for the category of specific learning disability, each IEP team member certify in writing whether the IEP team report reflects his or her conclusions, and if it does not, to have that team member submit a dissenting opinion in order to ensure that parents are aware of dissenting opinions regarding the determination of eligibility.
- Requires that parent (s) receive a copy of their child's evaluation report and any documentation leading to a determination of eligibility not less than 10 calendar days prior to the eligibility conference in order to ensure that parents have a reasonable amount of time to review documentation prior to an eligibility conference;
- Clarifies that districts may use community rehabilitation programs approved by the New Jersey Department of Labor, Division of Vocational Rehabilitation Services or any state agency empowered to do so; and
- Incorporates by reference the Federal "child find" provisions in order to further clarify the policies and procedures that must be in effect regarding the identification, location and evaluation of all students with disabilities. The rules require the department to describe the procedures in the State Special Education Plan that is submitted to the U.S. Department of Education for eligibility under Part B of the Individuals with Disabilities Education Act.

The current special education rules became effective on July 6, 1998. The adoption of these proposed amendments will not alter the sunset date of July 6, 2003.