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SECRETARY OF EDUCATION

BILL RICHARDSON  
Governor

October 16, 2007

**MEMORANDUM**

**TO:** Special Education Directors  
Regional Education Cooperatives  
Charter Schools Directors

**FROM:** Denise Koscielniak (Signature on File)  
State Director of Special Education

**RE: EDUCATIONAL ASSISTANT AND PARAPROFESSIONAL PERSONNEL**

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The following guidance is being provided to you in accordance with the reauthorization of the Individuals with Disabilities Education Act (IDEA) regarding Educational Assistants and Paraprofessional Personnel.

The requirements for Educational Assistants and Paraprofessional Personnel are located in 20 U.S.C. § 1412(a)(14)(B)(iii) and 34 CFR 300.156(b)(2)(iii) and state the following:

*“Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.”*

The commentary to the regulations further clarifies the role of paraprofessionals and assistants as follows:

*“Section 300.156(b)(2)(iii), consistent with section 612(a)(14)(B)(iii) of the Act, does specifically allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, to assist in providing special education and related services to children with*

*disabilities under the Act. However, this provision should not be construed to permit or encourage the use of paraprofessionals as a replacement for teachers or related services providers who meet State qualification standards. To the contrary, using paraprofessionals and assistants as teachers or related services providers would be inconsistent with the State's duty to ensure that personnel necessary to carry out the purposes of Part B of the Act are appropriately and adequately prepared and trained. Paraprofessionals in public schools are not directly responsible for the provision of special education and related services to children with disabilities; rather, these aides provide special education and related services to children with disabilities only under the supervision of special education and related services personnel." 71 Fed. Reg. 46612 (2006).*

Paraprofessionals and educational assistants cannot be used as a replacement for the special education teacher or related services personnel, but can be used to assist the teacher or related service personnel under the teacher's or related services personnel's supervision. To provide special education and related services with only educational assistants would be inconsistent with the IDEA.

DK/ag/le

cc: Catherine Cross Maple, Ph.D., Deputy Secretary, Learning and Accountability  
Patricia Parkinson, Ed.D., Assistant Secretary, Instructional Support and Vocational Education  
MaryRose C'de Baca, Ed.D., Assistant Secretary, Educator Quality Division  
Albert Gonzales, Assistant General Counsel, Special Education Bureau  
District Superintendents