



**The Council of Parent Attorneys and Advocates, Inc.**

*A national voice for special education rights and advocacy*

PO Box 6767, Towson MD 21285 (410) 372-0208

For more information on this brief: Denise Marshall, Executive Director,  
exec@copaa.org

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**OSEP's Interpretation Eliminating Stay-Put for Children Transitioning from Part C to Part B is Inappropriate and Should Be Reversed.**

In *Pardini v. Allegheny Intermediate Unit*, 420 F.3d 181 (3d Cir. 2005), the Court held that the Part C placement is stay-put when a child transitions into Part B special education. Continuing services while disagreements are worked out preserves the child's ability to continue to learn, progress, and improve. But OSEP has rejected this interpretation. In the Part B regulations, it did so without notice and comment, simply making the change in the final version of 34 C.F.R. § 300.518. Consequently, parents were taken by surprise, lacking the opportunity to comment and oppose the concept. (OSEP eventually provided notice and comment for the change by including it in the Part C NPRM; the final Part C regulations are pending with OMB with a final deadline in late January 2009.) The danger in OSEP's approach is that it disrupts the child's ability to learn and progress and to have a smooth transition. Moreover, because there is no stay-put alternative other than Part C for three year olds (the child cannot simply be placed into regular education) the regulation effectively gives them no stay-put rights. This is wrong and must be changed.