



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 21 1997

Dear,

Your letter to First Lady Hillary Rodham Clinton has been referred to the U.S. Department of Education's Office of Special Education Programs (OSEP) for reply. OSEP is responsible for administering the Individuals with Disabilities Education Act (IDEA), which provides financial assistance to State educational agencies (SEAs) and through them to local educational agencies (LEAs) to assist States in providing a free appropriate public education (FAPE) to all eligible children who have one or more of thirteen disabling condition. In your letter to President Clinton, you informed him of the difficulties you have experienced in getting appropriate educational services for . You stated that you have been told that he may have attention and learning problems. I would like to provide you with a brief explanation of how the IDEA seeks to ensure FAPE is made available to all eligible children, and how you can go about getting the services that may need.

Under Part B of IDEA. SEAs and LEAs have as affirmative obligation to evaluate all eligible children who have, or who are suspected of having, one or more of thirteen disabilities as defined in the statute and regulations, to determine the child's need for special education and related services, and SEAs and LEAs are required to have procedures for locating, identifying, and evaluating such children. See 34 CFR §§300.128 and 300.220 (copy enclosed). This is known as "child find" and is applicable to all children tom birth through 21 years of age, regardless of the severity of the disability.

As part of the "child find" obligation, SEAs and LEAs must ensure that children suspected of having a disability and needing special education and related services are evaluated without undue delay. See 20 U.S.C. §1412(2). If has not been evaluated, you can contact your school district and request that he have an educational evaluation to identify possible disabilities and the need for special education and related services.

An LEA may not refuse to evaluate a child because of a prior medical diagnosis of attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD). The responsibilities to evaluate and provide FAPE to children with ADD and ADHD were clarified in a Department of Education. Memorandum, dated September 16, 1991, issued jointly by Assistant Secretaries from the Office of Special Education and Rehabilitative Services, the Office for Civil Rights, and the Office of Elementary and Secondary Education, respectively. Enclosed is a copy of that Memorandum for your information. Also enclosed is a copy of some materials that well give you additional information about ADD.

If it is determined that \_\_\_\_\_ needs special education and related services, the public agency must initiate and develop an individualized education program (IEP) for him. See 34 CFR §§300.340-300.350. The IEP must include, among other elements, a statement of the specific special education and related services to be provided and the extent to which he will be able to participate in a regular educational program. During the IEP meeting, a child's parents and the public agency will have the opportunity to discuss his unique needs and how those needs will be addressed. If there is disagreement with the content of his IEP, the educational placement, or the public agency's provision of FAPE, a due process hearing may be requested under 34 CFR §300.506 to resolve any disagreements. I am enclosing some publications from the National Information Center for Children and Youth with Disabilities on IEPs that provides useful information about the IEP process as well as information about special education and related services.

If you have any additional questions about \_\_\_\_\_ educational needs or the implementation of the Part B requirements in North Carolina, you may wish to contact the State director of special education at the following address and telephone number:

Mr. E. Lowell Harris  
Director  
Exceptional Children Division  
North Carolina State Department of  
Public Instruction  
301 N. Wilmington Street  
Raleigh, North Carolina  
Telephone: (919) 715-1565

I hope that this information is helpful to you. If I may be of further assistance, please let me know.

Sincerely,



Thomas Hehir  
Director  
Office of Special Education  
Programs

Enclosures

cc: Mr. E. Lowell Harris