



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

October 22 1997

Mr. Donald C. Buell
Member, Board of Education
Hinsdale Township High School District #86
39 Regent Drive
Oak Brook, Illinois 60521-1744

Dear Mr. Buell:

This is in response to your letter to the office of Special Education Programs dated April 8, 1997, in which you ask this office to clarify the meaning of the words "regular classes," as used in the least restrictive environment (LRE) provisions of Part B of the Individuals with Disabilities Education Act (Part B), as amended by the Individuals with Disabilities Education Act Amendments of 1997. Your questions have arisen because the Hinsdale South School District has designated eight "G" track English classes co-taught by a regular and a special education teacher as "regular classes," even though these classes are composed of approximately 62 percent students with disabilities.

States receiving Part B funds must ensure that each disabled student has available a free appropriate public education (FAPE) in the LRE. LRE means that, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and that "special classes, separate schooling, or, other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." 20 U.S.C. §1412 (a)(5)(A); see also 34 CFR §300.550(b)(1)-(2). This statutory provision expresses a preference for educating children with disabilities in regular classes alongside their nondisabled peers with supplementary aids and services. Neither the Part B statute nor its implementing regulations define the term "regular classes." Also, because Part B does not use the term "inclusion," there is no Federal definition of the term.

Part B also requires that each disabled student's educational placement, among other things, is determined at least annually and is based on the student's individualized education program (IEP). 34 CFR §300.552(a)(1)-(2). Each student's IEP must contain, among other components, a statement of the specific special education and related services to be provided to the student and the extent that the child will be able to participate in regular educational programs. 34 CFR §300.346(a)(3). Part B and its implementing regulations do not establish either maximum

class size or composition requirements or teacher-pupil ratios. Such requirements are normally imposed by State law or regulations. However, we believe that if the particular class size or composition impacts on the provision of FADE to a child, the local educational agency must ensure that the child receives the special education and related services as specified on the IEP.

I am enclosing for your information a copy of a letter in which this Office has previously addressed the issue raised by your inquiry, published at EHLR 211:433. That letter reiterates that neither the Part B statute nor regulations define the term "regular classes," and suggests some factors that can be considered in determining whether a program would constitute a regular class. As you may know, the Department will be publishing regulations amending 34 CFR Part 300 to implement the statutory changes made to Part B as a result of the reauthorization of the Individuals with Disabilities Education Act. As we evaluate areas in which regulatory activity may be warranted, your comments will be considered.

I was really pleased to hear from you and certainly appreciate being updated on how well your son, Don, is progressing. Thank you for your continued interest in the education of students with disabilities. We hope that you find the above explanation and the enclosed letter to be helpful.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosure

cc: Mary Jane Broncato
Illinois State Board
of Education