



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JAN 12 1998

Dear

Thank you for your letter of October 20, 1997, written to President Clinton and copied to Senator Christopher S. Bond and Congressman William Clay of Missouri. Your letter has been forwarded to the U.S. Department of Education, Office of Special Education Programs (OSEP), for response. OSEP administers the Individuals with Disabilities Education Act (IDEA). IDEA authorizes Federal financial assistance to States to assist in providing a free appropriate public education (FAPE) to children with disabilities.

In your letter, you request the Administration's position on the apparent use by a school district of the designation "Child with Special Educational Needs" for a student with syphilis. You ask whether such use was the intent of Congress in enacting IDEA.

IDEA was enacted to ensure children with disabilities have available free and appropriate education. A student would not be considered eligible for special education services under IDEA solely because he or she has a sexually transmitted disease. To be considered a child with a disability and eligible for special education services under Part B of IDEA (Part B governs children with disabilities between 3 and 21 years of age), (1) a child must be determined to be a child with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities: and (2) because of one or more of the above impairments, the child must need special education and related services. A determination of whether a child has a disability under Part B is accomplished by a comprehensive individual evaluation, conducted in accordance with specified procedures by a team of qualified individuals, including the parents) of the

child. See §614 of IDEA. (IDEA was recently reauthorized by the 1997 Amendments to IDEA (IDEA '97), Public Law 105-17. We have enclosed a copy of IDEA '97 for your information, as well as the Department of Education's Notice of Proposed Rulemaking implementing IDEA '97, published in the Federal Register on October 22, 1997 at 62 Fed. Reg. 55026.)

The fact that a student is considered disabled under Part B does not preclude a school district from taking disciplinary action when a student violates the school's rules of conduct. For more information regarding discipline under Part B, we have enclosed a copy of OSEP Memorandum 97-7, entitled "Initial Disciplinary Guidance Related to the Removal of Children with Disabilities from their Current Educational Placement for Ten School Days or Less."

We hope that you find the above explanation and the enclosed information helpful. If you would like further assistance, please contact Ms. Helen Eano, the Missouri State contact in the Monitoring and State Improvement Planning Division, at (202) 205-9583.

Sincerely,



Thomas Hehir  
Director  
Office of Special Education  
Programs

Enclosures

cc: Ms. Melodie Friedebach  
Missouri Department of  
Elementary and Secondary  
Education