



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

February 12, 2002

(Address blacked out)

Dear (Name blacked out):

Thank you for your letter concerning the educational program for X, and your comments about the President's "No Child Left Behind" goals. According to your e-mail, you believe that X and other children with autism in your school district are not receiving an "adequate" public education because they are not getting the amount of special education services they need. You refer to recommendations for services for children with autism in the report "Educating Children with Autism", developed by the National Research Council and expressed concern about its application under the IDEA.

When the President speaks of leaving no child behind, his commitment refers to all children, including those with disabilities. The passage of the Education for All Handicapped Children Act (now the Individuals with Disabilities Education Act (IDEA)) has helped millions of students with disabilities achieve high academic standards and participate fully in American society. Yet, notwithstanding this progress, the U.S. Department of Education recognizes the challenges States and localities face in carrying out the responsibility to provide appropriate educational services for children with disabilities. The Department has already begun to prepare for the reauthorization of IDEA with the goal of improving services to children with disabilities. We will consider your remarks along with comments received from other individuals during the upcoming reauthorization activities.

However, with respect to your immediate concerns about X and other young children with autism in your school district, the IDEA statute and Part B regulations (copy enclosed) both make clear that services for a child must be identified and provided based on the unique needs of the child. One of the goals of the IDEA is "to ensure that all children with disabilities have available to them a free appropriate public education ["FAPE"] that emphasizes special education and related services designed to meet their *unique* needs...." 20 U.S.C. §1400(d)(1)(A); 34 CFR §300.300.1(a) (emphasis added). Special education under the IDEA is "specially designed instruction, at no cost to the parents, to meet the *unique* needs of a child with a disability..." 20 U.S.C. §1402(25); 34 CFR §300.26(a)(1) (emphasis added). In addition, under 34 CFR 300.300(a)(3)(ii), "the services and placement needed by each child with a disability to receive a free appropriate public education must be based on the child's unique needs, and not on the child's disability." Thus, decisions regarding the provision of services that are appropriate for an individual child must be based on the child's unique needs and not on the disability category in which the child is classified.

It is through the individualized education program (IEP) that the child's special education and related services are identified. In determining a child's IEP content, the Part B regulation at 34 CFR §300.347 (a)(3) requires that a child's IEP include "a statement of special education and related services and supplementary aids and services to be provided to the child or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to the child." Parents are members of the IEP team and through the IEP process, a parent can also discuss with school officials different approaches that would appropriately meet their child's unique needs.

As you know, if the parent and the local school district staff cannot agree on the content of the IEP, the parent can ask for a due process hearing, and an impartial hearing officer can make an independent decision in order to resolve any disagreements. See 20 U.S.C. §1415(f); 34 CFR §§300.507-300.514. A mediation process must also be available to assist parties in resolving disputes when a due process hearing is requested. 20 U.S.C. §1415(e); 34 CFR §300.506. A parent also has the option of filing a complaint with the State if they believe that a public agency has violated a requirement of Part B. The complaint procedures applicable to Part B are described in the enclosed regulations at 34 CFR §§300.660-300.662. Copies of two OSEP Memoranda, which discuss the mediation and complaint processes, are enclosed for your information.

Thank you for sharing your experiences and expressing your concerns with us. If we can be of further assistance, please contact Dr. Ken Kienas (OSEP's State Contact for Colorado) at (202) 205-9057.

Sincerely,

A handwritten signature in black ink that reads "Patricia J. Guard". The signature is written in a cursive, flowing style.

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures