



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DEC 31 1997

Mark A. Hall  
Neighborhood Schools Now!  
4523 Hazelnut Court  
Chantilly, Virginia 20151

Dear Mr. Hall:

This is in response to your letter to the Office of Special Education Programs (OSEP), dated October 7, 1997, written on behalf of Neighborhood Schools Now!, based in Fairfax County, Virginia. We commend you and Neighborhood Schools Now! for your efforts to ensure that children with disabilities are being appropriately educated in integrated and age-appropriate classrooms in their neighborhood schools with required support services.

You have written because you are concerned that a segment on special education that aired on the National Public Radio (NPR) broadcast of September 28, 1997, of the program "All Things Considered," may have been misleading to some listeners.

We believe that many of the provisions of the reauthorized Individuals with Disabilities Education Act (IDEA) are based on the premise that special education is a set of services, rather than a place, and that the reauthorized IDEA underscores the importance of expanding opportunities for disabled students to participate in regular classroom settings with appropriate supplementary aids and services. We would like to take this opportunity to clarify these IDEA requirements as they relate to your inquiry.

Part B of the Individuals with Disabilities Education Act (Part B), the Federal law that guarantees equality of educational opportunity for disabled students, was reauthorized by the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). IDEA '97 continues to provide that, as a condition for receipt of IDEA funds, States must have policies and procedures 'for ensuring that a free appropriate public education (FAPE) is made available to all children with disabilities residing in the State in mandatory age ranges. Section 612 (a)(1)(A). In addition, as was the case under the predecessor statute, States must have policies and procedures for ensuring that, to the maximum extent appropriate, children with disabilities, including those in public or private institutions or other care facilities, 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. Section 612(a)(5)(A). This statutory provision, known as the least restrictive environment (LRE) principle, expresses IDEA's strong preference for educating children with disabilities in regular classes with appropriate supplementary aids and services.

IDEA '97 also contains requirements for each child's individualized education program (IEP) that enhance opportunities for disabled students to participate in the general curriculum. See section 614(d)(1)(A)(i) and (ii).<sup>2</sup> IDEA '97 requires that each child's IEP include a statement of the 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 for the child. Section 614(d)(1)(A)(iii). The IEP must also include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities. Section 614(d)(1)(A)(iv). The regular education teacher is also a required member of the IEP Team, "(if the child is, or may be, participating in the regular education environment)." Section 614(d)(1)(B)(ii). This means that, to the extent appropriate, the regular education teacher is required to be part of the IEP development and review, including determinations of behavioral interventions, supplementary aids and services, program modifications, and support for school personnel. Sections 614(d)(3)(C), and 614(d)(4)(B).

IDEA '97 also permits States and school districts to use IDEA funds more flexibly to provide services for disabled children in regular classroom settings even if nondisabled children benefit from those services as well. Section 613(a)(4)(A). We believe that these provisions should strengthen appropriate educational opportunities for disabled students in regular class placements.

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<sup>1</sup> You also might be interested to know that IDEA '97 amends IDEA's LRE provision by adding a new requirement that is designed to remove financial incentives for placing children in unnecessarily restrictive settings. Section 612(a)(5)(B).

<sup>2</sup> Although IDEA '97 was passed by Congress in May, 1997, and signed into law by President Clinton on June 4, 1997, the statute provides that the IEP provisions in section 614(d)(1)-(5) do not take effect until July 1, 1998. See Pub. L. 105-17, sec. 201(a)(1)(C). Question 48 in Appendix C to 34 CFR Part 300, which is currently in effect, contains the general guidance that any supplementary aids and services provided to a disabled student must be included in the student's IEP.

Even though IDEA does not mandate regular class placement for every disabled student, IDEA presumes that the first placement option considered for each disabled student is the regular classroom in the school that the student would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement. Thus, before a disabled child can be placed outside of the regular educational environment, the full range of supplementary aids and services that could be provided to facilitate the student's placement in the regular classroom setting must be considered. Following that consideration, if a determination is made that a particular disabled student cannot be educated satisfactorily in the regular educational environment, even with the provision of appropriate supplementary aids and services, that student then could be placed in a setting other than the regular classroom. In all cases, placement decisions must be individually determined on the basis of each child's abilities and needs, and not solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience. Rather, each student's IEP forms the basis for their placement decision.

Further, it is OSEP's position that a student need not fail in the regular classroom before another placement can be considered. Conversely, OSEP does not require that a student demonstrate that he or she will be able to achieve satisfactorily in the regular classroom as a prerequisite for such placement.

We hope that you find this explanation helpful.

Sincerely



Thomas Hehir.  
Director  
Office of Special  
Education Programs

cc: Douglas Cox  
Virginia Department  
of Education