



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

AUG 20 1998

Honorable Roscoe G. Bartlett
Member, House of Representatives
15 E. Main Street, suite 110
Westminster, Maryland 21157

Dear Representative Bartlett:

This is in response to your letter on behalf of your constituent, Ms. _____ of Maryland, regarding special educational services for students in the Howard County Public School System, particularly those students who are diagnosed as severely emotionally disturbed (SED) under Part B of the Individuals with Disabilities Education Act (Part B). Ms. _____ expressed concern regarding some unpleasant experiences she encountered working with SED students during the 1997-98 school year. Specifically, she indicated that she feels that the laws which protect students with disabilities under Part B make it difficult to discipline these students. She also stated that more programs need to be developed for SED students with qualified staff working with them. The following information is being provided for your consideration in responding to Ms. _____.

As you are aware, on June 4, 1997, President Clinton signed into law the Individuals with Disabilities Education Act Amendments of 1997, (IDEA '97). Among the major provisions that are contained in IDEA '97 are new requirements relating to disciplining disabled students. It has always been the position of this Administration that our schools must be safe, disciplined, and drug-free. IDEA '97 expands the authority of school officials to protect the safety of all children, while ensuring that essential rights and protections are available to student with disabilities. I believe that the provisions of IDEA '97 strike an appropriate balance between the importance of providing a safe and orderly learning environment for all students and safeguarding the rights of disabled students and their parents. We believe that teachers, administrators and other personnel working with students, including students with disabilities, deserve orderly work environments in safe, well-disciplined schools, as well.

It is the Department's position that students with disabilities may be disciplined in the same manner as nondisabled students, as long as disabled students are not penalized for behavior that is a manifestation of their disability and are provided educational services in an alternative setting. Under IDEA '97, students with disabilities may be suspended for more than ten school days or expelled from school if, based on a review of the relationship between the student's disability and the behavior subject to the disciplinary action, it is determined that the students' behavior is not a manifestation of the student's disability, and nondisabled students who engage in similar behavior also would be excluded from school for the same amount of time. However,

students with disabilities subject to long-term disciplinary exclusion from school must receive a free appropriate public education during the period of disciplinary removal from school. It has long been the Department's view that cutting off students with disabilities from educational services is not an effective punishment. Instead, it reduces their chances of being productive, law-abiding members of their communities. We believe that continued services are essential to ensure that disabled students who are subject to disciplinary exclusions from school do not fall further behind and are able to gain the necessary skills to modify their behavior once they return to school. IDEA requires that, in developing the IEP, in the case of a child whose behavior impedes his or her learning or that of others, the IEP team, when appropriate, consider strategies, including positive behavioral interventions, strategies and supports to address that behavior.

I have enclosed some materials which address the issue concerning discipline of students with disabilities. These materials include the following documents:

- 1) Memorandum dated September 19, 1997 to Chief State School Officers, from Thomas Hehir, titled: Initial Disciplinary Guidance Related to Removal of Children with disabilities from their Current Educational Placement for Ten School Days or Less.
- 2) IDEA '97; and
- 3) Proposed Regulations (October 22, 1997).

Ms _____ should feel free to contact Ms. Delores Barber in the Office of Special Education Programs at (202) 205-9033 if she has any questions regarding these materials that need further clarification.

Thank you for bringing this matter to my attention. I hope the information provided herein is helpful. If I can be of any further assistance, please do not hesitate to contact me or Ms. Barber.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosures