



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

January 14, 2002

(Address blacked out)

Dear (Name blacked out):

This is in response to your letter to Secretary Paige regarding the overrepresentation of minority children in special education programs. Your letter has been forwarded to the Office of Special Education Programs (OSEP) for response.

Overrepresentation is a complex problem. Students from some racial and ethnic minority backgrounds are more likely to be disproportionately placed in special education programs and classes. For example, in 1992, Black students accounted for 16 percent of the total U.S. population, but represented 32% of students in programs for mild mental retardation, 29% in programs for moderate mental retardation, and 24% in programs for serious emotional disturbance.<sup>1</sup>

OSEP and the Office for Civil Rights (OCR) continue to address disproportionate representation as a priority. OSEP funds important research and technical assistance activities that provide insight into the issues and strategies to resolve these concerns. This research has played a critical role in advancing the knowledge and understanding about how to address the multiple, complex issues concerning minorities and special education. OCR has designated minority students in special education as a priority enforcement issue. Both OSEP and OCR are developing and disseminating resource materials to help prevent and correct disproportionate representation.

The Individuals with Disabilities Education Act (IDEA) requires that a free appropriate public education be provided to children with disabilities in the least restrictive environment. IDEA supports the concept that special education is not a place, but an array of services to meet the individual needs of students with disabilities. The services provided to a student should be an outgrowth of the evaluation process that must meet the requirements of the evaluation procedures under 34 CFR §§300.530-300.533. Tests and other evaluation materials used to assess a child must be selected and administered so as not to be discriminatory on a racial or cultural basis. Multiple assessment measures and a broad base of student data are required to make a valid determination of eligibility and placement (see 34 CFR §300.532). All of this should be reflected in the student's individualized education program.

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<sup>1</sup> Robertson, P. & Kushner, M. with Starks, J. & Drescher, C. (1994). An Update of Participation of Culturally and Linguistically Diverse Students in Special Education: The Need for a Research and Policy Agenda. *The Bilingual Special Education Perspective*, 14(1), 3-9.

Students with disabilities may not be removed from the regular education classroom and placed in separate special education settings unless it has been explicitly determined that the regular education setting is not appropriate to the student's educational needs, even with supplemental aids and services (see §§300.550(b) and 300.552). A unified system that includes regular and special education, with more services provided in the regular education classroom can provide alternatives to segregation.

States and districts should continuously monitor referral and enrollment data by race, ethnicity, language, disability, gender, age, and socioeconomic status. The 1997 amendments to IDEA require States to collect and report data on race along with data on disabilities (see §300.755). As well as giving the State or district needed data on their student demographics; this provides the data to assess efforts to reduce disproportionate representation.

We appreciate your interest in this extremely important issue. OSEP will continue to work with States, districts, other Federal agencies, organizations, and parents to reduce the adverse effects of disproportionate representation of minority students in special education.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs