



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Jul 15, 1997

Dear

Your electronic mail (E-mail) to the White House has been referred to the U.S. Department of Education's Office of Special Education Programs (OSEP) for response. OSEP is responsible for administering the Individuals with Disabilities Education Act (IDEA), which provides Federal financial assistance to State educational agencies and local educational agencies to assist States in making available a free appropriate public education (FAPE) to all eligible children with one or more of thirteen disabling conditions as defined in Part B of the IDEA regulations, including children and youth who are hearing impaired.

You inquired about the educational plan for hearing impaired people in the United States. Perhaps the following information may be helpful to answer some of your concerns. Under Part B, a public agency's obligation to provide FAPE requires that the child be provided with special education and related services without charge and in conformity with an individualized education program (IEP). See 34 CFR §300.8(a) and (d) (copy enclosed). Public agencies must also ensure that removal from the regular educational environment only occurs when the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. See 34 CFR §300.550(b)(2).

In developing each child's IEP, the public agency must include a statement of the specific special education and related services to be provided to the child and the extent that the child will be able to participate in regular educational programs. See 34 CFR 300.346(a)(3). To determine the extent to which the child will be able to participate in the regular educational program, the IEP team would have to consider what, if any, supplementary aids and services are necessary to minimize or avoid the child's removal from the regular educational environment. See 34 CFR §§300.346(a)(3) and 300.550(b)(2). In the 1997 Amendments to the IDEA LP.L. 105-17) Congress added as additional requirement with respect to hearing impaired children that is effective July 1, 1998. The new provision provides that the IEP Team must consider, among other things, in the case of the child who is deaf or hard of hearing, the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

On October 30, 1992, a Notice of Policy Guidance on Deaf Students Education Services (Notice) was published in the Federal Register at 57 Fed. Reg. 49274 (copy enclosed). The purpose of this Notice was to clarify the FADE requirements of Part B and Section 504 of the Rehabilitation Act of 1973, as they relate to children and youth who are deaf. In the Notice, the Department emphasized that the overriding rule in determining the program and placement for each child who is deaf is that these determinations must be made on an individual basis to ensure that FAPE is made available to the child. This continues to be the policy of the Department, and this policy is equally applicable to students with disabilities other than deafness who need special education and related services.

Since I became the Director of OSEP, I have had the opportunity to meet or talk with people from many groups representing children, youth and adults with all types of disabilities, including deafness. I have also met with hundreds of parents and educators of disabled children and youth across the nation. I truly believe that within the past twenty years, there have been wonderful accomplishments in the education of disabled students in this country. However, I know more needs to be done. The main concern that I have heard expressed during my many conversation with students, parents, educators and administrators is that for many disabled students, including those who are deaf, the full range of placement options is not available. Public agencies are required to make available a continuum of alternative placements to meet the needs of eligible children with disabilities. The options on this continuum, which must be made available to the extent necessary to implement each child's IEP, must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

The continuum of alternative placements is an integral part of the IDEA regulations which the Assistant Secretary for the Office of Special Education and Rehabilitative Services, Judith E. Heumann, and I are bound, both by our positions and by our own beliefs, to enforce. We believe, consistent with IDEA, that the regular classroom should be the first placement considered for students with disabilities. We also believe our education system must provide administrators and teachers with the training and support they need to make the regular classroom the appropriate placement, and we aim to provide strong leadership to help make that happen. At the same time, we fully appreciate and support the important role of other options on the continuum of placements for some students.

I hope you find this information helpful in addressing your concerns. If my Office can be of further assistance, please let me know.

Sincerely,



Thomas Hehir
Director
Office of Special Education Programs

Enclosures