



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

FEB 10 2000

[REDACTED]

Dear [REDACTED]

This letter is in response to your e-mail to President Clinton regarding the inclusion of students with disabilities in the regular classroom. Your e-mail was forwarded to the Office of Special Education Programs (OSEP) in the U.S. Department of Education (Department) for response. OSEP administers Part B of the Individuals with Disabilities Education Act (Part B). Part B authorizes Federal financial assistance to States, and through them to local school districts, to assist in providing a free appropriate public education (FAPE) to children with disabilities residing in the States in mandatory age ranges.

Your letter to the President expresses deep concern about students with disabilities being placed in regular education classrooms with non-disabled students. Your concern is based on your recent observations of a student with a learning disability who is in an inclusion program at your college and under investigation for misconduct. Also, you state that you have had talks with public education teachers who are "not happy to accommodate and modify for special needs children (and) do not feel that this is part of their job." You believe that special education teachers would be better at providing for the educational needs of students with disabilities than general educators.

Part B of the Individuals with Disabilities Education Act (Part B), the Federal law that guarantees the quality 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.

In response to the misconduct of the student at your college, Part B of the IDEA '97 does not deal with matters concerning discipline of a student with a disability in college. The regulation at 34 CFR §300.122(a)(3)(i) states that the obligation to make FAPE available to all children ceases when a student with a disability graduates from high school with a regular high school diploma or reaches the applicable age. Some issues regarding students with disabilities in postsecondary education are under the jurisdiction of and are directed to the Office for Civil Rights in the U.S. Department of Education.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

It is true that, under IDEA '97, States must ensure 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, schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of a disability is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily. Section 612(a)(S)(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.

However, among the major provisions that are contained in IDEA '97 are new requirements related to disciplining disabled students. IDEA '97 expands authority for school officials to protect the safety of all children, while ensuring that essential rights and protections are available to students with disabilities. Section 615(k) of IDEA'97 addresses the options available to school authorities in disciplining disabled students and sets forth procedures that must be followed when taking disciplinary actions. In addition, one factor in developing an individualized education program (IEP) for a child with a disability under IDEA is the effect the child's behavior has on his or her learning or that of others. Section 614(d)(3)(B).

We thank you for writing and sharing your views, and we hope that you find the above explanation helpful. If you would like further assistance, please contact the Office of Special Education Programs and speak with Ms. Camellia Wang at (242) 401-1891 or Dr. JoLeta Reynolds at (202) 205-5507, or you may reach Mr. Paul Steenen, the Texas State contact in the Monitoring and State Improvement Planning Division, at (202) 205-9908.

Sincerely,

Kenneth R. Warlick
Director
Office of Special Education Programs

Cc: Gene Lent, Director of Special Education Unit
Texas Education Agency