



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

March 13, 1998

Dear :

Thank you for your letter of January 24, 1998, written to Secretary of Education Richard W. Riley, regarding disciplining students with disabilities. Specifically, you ask why disabled students can be suspended for only ten school days when there is no similar limit for nondisabled students, and why disabled students cannot be expelled from school. Your letter was forwarded to the office of Special Education Programs for response.

As you may know, 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 students 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.

It has always been 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 student's disability, it is determined that the student's 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

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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.

For your information, I am enclosing an OSEP Memorandum that provides initial guidance on the requirements of IDEA '97 as they relate to disciplining students with disabilities. I also am enclosing the Department's Notice of Proposed Rulemaking (NPRM) on IDEA '97, which was published in the Federal Register on October 22, 1997. The Department accepted public comment on this NPRM and is currently reviewing those comments to develop the final regulations.

We hope that you find the above explanation and the enclosed information helpful. If you would like further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss in the Office of Special Education Programs at (202) 205-5507.

Sincerely,

A handwritten signature in black ink that reads "Thomas Hehir" with a stylized flourish at the end.

Thomas Hehir
Director
Office of Special Education
Programs

Enclosures