



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

SEPT 20  
1999

[REDACTED]

Dear [REDACTED]

By letter dated [REDACTED] Secretary of Education Richard W. Riley wrote to you and provided information that was relevant to the Department's actions following the tragic shootings at Columbine High School in Littleton, Colorado. The Office of Special Education Programs (OSEP) also has been ask to respond to those portions of your letter concerning the provisions of the Individuals with Disabilities Education Act (IDEA) applicable to disciplining students with disabilities.

As indicated in Secretary Riley's [REDACTED] letter responding to your inquiry, it is critical for school officials and parents to respond promptly to signs of misconduct when they first appear, since doing so could avoid the need for more drastic measures. We are committed to helping schools respond appropriately to a child's behavior, promoting the use of appropriate behavioral interventions, and increasing the likelihood of success in school and school completion for some of our most at-risk students.

In your letter, you describe your understanding of the disciplinary provisions in the IDEA. I would like to; take this opportunity to clarify the requirements of the IDEA that are applicable in disciplinary situations and to direct you to the relevant provisions of the preamble to the new regulations which I believe clarify some of the issues raised in your inquiry.

As your letter recognizes, in 1975, when Congress enacted the Education for All Handicapped Children Act, the predecessor statute to the IDEA, more than one half of our nation's children with disabilities did not receive appropriate educational services, and one million of those children were excluded entirely from a publicly-supported education. 20 U.S.C. §1400(c)(2)(B)-(C). All too often, school officials used disciplinary measures to exclude children with disabilities from education simply because they were different or more difficult to educate than nondisabled children. Thus, IDEA guarantees our

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nation's children with disabilities equality of educational opportunity by requiring States receiving IDEA funds to make a free appropriate public education (FAPE) available to eligible students with disabilities residing in the State in mandatory age ranges in the least restrictive environment. IDEA also guarantees those children and their parents a range of procedural protections and safeguards.

In your letter, you express the view that "...special needs students who are identified as Behaviorally and Emotionally Disabled (BED) cannot be punished in the same way as other students. Schools are given a set maximum number of days that these students can be suspended from school for any action."

In the reauthorization of IDEA by the IDEA Amendments of 1997 Pub. L. 105-17 (IDEA '97), Congress recognized that in certain instances school districts need increased flexibility to deal with safety issues, while maintaining needed due process and procedural protections for children with disabilities and their parents. A copy of the Department's Federal Register publication of the final regulations implementing Part B of IDEA (Part B), as amended by IDEA '97, is enclosed for your information.

Of particular relevance to your inquiry is the preamble section beginning on page 12414, entitled "Answers to Some Commonly Asked Questions About Discipline Under IDEA." The discussion in that section includes an explanation of: why there are special rules about discipline for children with disabilities; the IDEA provisions that promote proactive up-front measures that help prevent discipline problems; the removal of a child with a disability that is experiencing significant disciplinary problems, including removals for more than ten school days; and the removal provisions for carrying weapons to school or to a school function. In addition, you may find the explanation of the changes to the final regulatory provisions regarding discipline, beginning at page 12617, to be helpful in understanding the scope of the changes made in the final regulations.

It has always been the position of this Administration that our schools must be safe, disciplined, and drug-free. I believe that the final regulations for Part B of 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 thought that you also might find it useful to know that this Department funds a number of projects that focus on the use of positive behavioral interventions and supports. In particular, the following resources may be of assistance to you. The Office of Special Education and Rehabilitative Services funds a Center for Effective Collaboration (CEC) for children with emotional and behavioral problems, located at the American Institutes for Research (AIR) in Washington, DC. They provide information exchange on issues and materials related to positive behavioral supports, strategies, and interventions to help students with, or at risk of, emotional disturbance. Their website is [www.AIRDC.ORG/CECP/CECP.html](http://www.AIRDC.ORG/CECP/CECP.html), or you may wish to call them directly by telephone. Some individuals you may wish to contact there would be Drs. David Osher (202-944-5373) or Mary Quinn (202-944-5386). The IDEA Local Implementation for Administrators and Directors (ILIAD) Project supports a partnership of associations and other entities representing local-level administrators responsible for the implementation of IDEA. ILIAD is designed to assist OSEP in the successful implementation of IDEA 197 by providing effective and efficient dissemination of accurate information on the new statute to the local level administrator. Resources can be obtained by calling 1-877-CEC-IDEA or by accessing [www.ideapractices.org](http://www.ideapractices.org). In addition, I am enclosing some materials regarding OSEP-funded projects that conduct research and provide technical assistance on the use of behavioral interventions.

I hope that you find this explanation helpful. If we can be of further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of OSEP at (202) 205-5507, or (202) 205-9053, respectively. Sincerely,

Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs

Enclosures

CC: E. Lowell Harris  
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of Public Instruction