



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAR 31 1998

Dear _____ :

This is in response to your letter written to Secretary of Education Richard W. Riley, dated February 20, 1998, regarding the requirements governing education of children with disabilities under Part B of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). Your letter has been forwarded to the office of Special Education Programs for response.

In your letter, you ask the following question:

Are parents of children with disabilities [which include dyspraxia (an inability to plan motor functions) and an inability to communicate other than basic wants and needs] entitled to receive information about the specific public school program and school personnel through which a child's IEP goals will be implemented and, if so, what types of information are the parents entitled to?

The information requested in your letter to the _____ County Public Schools (CPS), dated July 14, 1997, relates to the educational program being offered to your child by CPS and addresses the services your child will receive, as well as the qualifications of the teachers and administrators who will be involved with your child. You state that under §615(b)(1) & (b)(6) of IDEA '97, as well as proposed 34 CFR §300.501(a)(1),¹ you have a right to the information requested in your July 14th letter. However, those statutory and regulatory provisions concern the education records of a child, which are those records directly related to a child and maintained by the educational agency, or a party acting for the educational agency, on behalf of a child. See 34 CFR §§300.560 & 99.3. Examples of such records would be the child's individualized education plan (IEP), tests taken by the child, evaluations of the child, and other

¹Proposed 34 CFR §300.501(a)(1) is currently stated at 34 CFR §300.502.

documents created in connection with the child's educational performance and conduct. Parents (or their representatives) have the right to inspect and review education records, as well as the right to a response from the school to reasonable requests for explanations and interpretations of the records. See 34 CFR §300.562. Parents also have "[t]he right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records ..." See 34 CFR §300.562(b)(2).

In addition, 34 CFR §§300.504-300.505 deal with prior written notice to parents whenever an agency proposes or refuses to initiate or change the child's identification, evaluation, placement or FAPE. But the prior written notice is a description and explanation by the educational agency of the proposed or refused action and would generally not encompass the information you seek.

However, the educational program to be provided a child with a disability under IDEA should be discussed at the IEP meeting. As you know, parents are to be included on the IEP team and are strongly encouraged to attend their children's IEP meetings and be part of the process for determining how their child is to be educated. See 34 CFR §§300.343-300.345. Concerns and questions regarding your child's IEP and educational placement should be addressed, to the extent feasible, in IEP meetings. IDEA '97 strengthens the emphasis on parental involvement in their child's education and adds the provision that parents are to be members of any group that makes educational placement decisions for their child. §614(f). Further, §614(d)(3) states that "[i]n developing each child's IEP, the IEP team, ... shall consider (i)the strengths of the child and the concerns of the parents for enhancing the education of their child ..."

Also enclosed with your letter is a decision and order of the Maryland State Department of Education, dated 1997
Child v. County Public Schools, OAH No.

). IDEA '97 specifies that a decision in a due process hearing or an appeal is final, unless a party aggrieved by the decision brings a civil action in an appropriate State or Federal court. §615(i)(1). Therefore, if you disagree with the Maryland State Department of Education's decision of your appeal, you have the right to bring a civil action in an appropriate State or Federal court to challenge that decision. Since there is nothing in IDEA '97 that gives the U.S. Department of Education jurisdiction to review a decision in a due process appeal at the State level, our Office cannot comment on the specific facts of your case.

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We regret that we cannot assist you further in connection with your request. We wish your well in educational endeavors. If you would like assistance with respect to other matters, please feel free to contact Ms. Barbara Route, the Maryland State contact in the Monitoring and State Improvement Planning Division, at (202) 205-9029.

Sincerely,

A handwritten signature in black ink that reads "Thomas Hehir". The signature is written in a cursive style with a horizontal line at the end.

Thomas Hehir
Director
Office of Special Education
Programs

cc: Ms. Carol Ann Baglin
Maryland Department of
Education