



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

THE ASSISTANT SECRETARY

JAN 20 1998

Honorable Thad Cochran
United States Senate
Washington, DC 20510-2402

Dear Senator Cochran:

Thank you for your letter, written on behalf of your constituent, Ernest L. Rivers, Assistant Superintendent of the Jackson County School District in Mississippi. Mr. Rivers wrote to you because of his concern about an incident involving a student with a disability, whom he indicated has attention deficit hyperactive disorder and was being educated at an alternative school.

Mr. Rivers expressed his concerns about the requirements of the recently reauthorized Individuals with Disabilities Education Act as they relate to disciplining disabled students. As you know, reauthorization of IDEA, the Federal law that guarantees equality of educational opportunity for disabled students, was the product of a bipartisan, bicameral effort that was chaired by Senator Trent Lott's Chief of Staff, David Hoppe. The bill passed with nearly unanimous support from both the House and the Senate.

Issues relating to student discipline were a focus of discussion throughout the reauthorization process. Some individuals voiced concerns, such as those expressed by your constituent, that students with disabilities could take unfair advantage of their disabilities and seek exemption from disciplinary penalties imposed on nondisabled students who engage in similar acts of misconduct. Others took the opposite view and advocated for safeguards in the law to ensure that disciplinary procedures did not become a vehicle for school districts to evade responsibility for serving certain students with disabilities.

While I am fully aware that there may be students who take unfair advantage of their status as disabled students in disciplinary situations, I believe that the provisions of IDEA strike an appropriate balance between importance of providing a safe and orderly learning environment for all students and the rights of disabled students and their parents. In particular, the new discipline provisions emphasize how important it is for school personnel to take prompt steps to address misconduct, as soon as it appears, by implementing appropriate behavior interventions and strategies.

While students with disabilities may be disciplined for behavior that is not a manifestation of their disability, IDEA clarifies that a free appropriate public education must be provided to such students during these periods of disciplinary exclusion from school. It has long been the Department's view that cutting off children with disabilities from educational services is not an

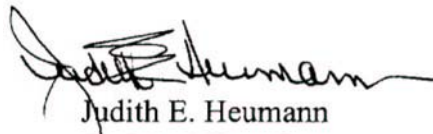
effective punishment. Instead, it reduces their chances of being productive, law-abiding members of their communities. We believe that continued services are essential to ensure that disabled students who are subjected to disciplinary exclusions from school do not fall further behind and are able to gain the necessary skills to modify their behavior once they return to school. We also thought your constituent might be interested to know that the new law clarifies that IDEA does not prohibit school personnel from reporting a crime committed by a student with a disability to appropriate State law enforcement or judicial authorities.

I very much appreciate your sharing your constituent's concerns with us. If your constituent needs further assistance, he may wish to contact the Director of Special Services in Mississippi, Ms. Carolyn Black, at the address and telephone number listed below, to request either technical assistance from that agency, or technical assistance from the South Atlantic Regional Resource Center, one of the six Resource Centers funded through the Department of Education, Office of Special Education and Rehabilitative Services.

Ms. Carolyn Black
Bureau Director
Bureau of Special Services
State Department of Education
P.O. Box 771
Jackson, Mississippi 39205-0771
(601) 359-3490

In addition, your constituent may wish to contact Dr. JoLeta Reynolds or Rhonda Weiss, in the Office of Special Education Programs, at (202) 205-5507.

Sincerely,



Judith E. Heumann