



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

NOV 6 1997

Honorable Ike Skelton
U.S. House of Representatives
Washington, D.C. 20515-2504

Dear Mr. Skelton:

Thank you for your letter, dated October 1, 1997, written to Secretary of Education Richard W. Riley, on behalf of your constituent, Mr. John Scherer, principal of Odessa Middle School, in Odessa, Missouri. Mr. Scherer has written to you to express concerns about what he terms a "dual system of discipline" for disabled and nondisabled students. He is concerned that the reauthorization of the Individuals with Disabilities Education Act (IDEA) by the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97), exacerbates this situation.

As you may know, IDEA '97, which reauthorized the more than 20 Year-old Federal law that guaranteed full equality of educational opportunity for all eligible 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 Senate. IDEA '97 retains and expands on many of the important provisions in prior law that set out the obligations of school districts to educate disabled children. Throughout the reauthorization process, issues relating to student discipline were discussed. Many individuals voiced concerns such as those expressed by your constituent, that special provisions relating to disciplining students with disabilities could create a dual system of discipline for disabled and nondisabled students. Others advocated for provisions in the law to ensure that students with disabilities were not unfairly disciplined, particularly for misconduct that was a result of their disability.

The specific provisions that were included in IDEA '97 regarding student discipline were intended to ensure safe and orderly learning environments for all students, consistent with the right of disabled students to a free appropriate public education (FAPE). We believe that the provisions of IDEA '97 strike an appropriate balance in the pursuit of both of these important educational goals. While we are sympathetic with the concerns voiced by your constituent about how time-consuming the implementation of the new provisions can be, we believe that the result will be that all students will benefit in the long run.

Specifically, the new discipline provisions in IDEA '97 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 expelled for behavior that is not a manifestation of their disability, IDEA 197 clarifies that FAPE must be provided to such students during these periods of disciplinary exclusion from school. We believe that continued services are essential to ensure that disabled students subject to disciplinary exclusions from school will not fall further behind and will gain the necessary skills to modify their behavior once they return to school.

We hope that you find this explanation helpful in responding to your constituent. If we can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Hehir".

Thomas Hehir
Director
office of Special Education
Programs