



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

Honorable Ted Stevens
United States Senate
Washington, DC 20510-6025

Mar 30 1999

Dear Senator Stevens: .

This is in response to your letter to Scott Fleming, Assistant Secretary for the Office of Legislation and Congressional Affairs dated December 16, 1998, regarding the disciplining of students with disabilities. Your letter to Assistant Secretary Fleming was written on behalf of your constituent, Michael S. Melear, Director, Student Support, Matanuska-Susitna Borough School District. Your constituent's letter is a follow-up to my letter to you dated October 20, 1998, which provides clarification of the Individuals with Disabilities Education Act Amendments of 1997, Pub. L. 105-17 (IDEA '97) regarding the disciplining of students with disabilities. In his letter, Mr. Melear indicates that he is representing the views of other special education directors in Alaska. Based on their concerns, Mr. Melear's letter contains specific recommendations for the Department to consider in implementing the provisions in IDEA '97 applicable to students with disabilities.

I appreciate your writing to share your constituent's concerns with us, and providing this Office with the opportunity to further clarify the relevant requirements of IDEA '97.

IDEA '97 gives school personnel the new authority to unilaterally place a student with disabilities in an interim alternative educational placement for up to 45 days if the student brings a weapon to school or to a school function or knowingly possesses or uses drugs while at school or a school function. See section 615(k)(1) of IDEA '97. A school district may also ask a hearing officer to order an interim alternative placement for up to 45 days for a disabled student, if the hearing officer determines that the disabled student poses a danger to self or others. See section 615(k)(2) of IDEA '97.

IDEA '97 contains several provisions that would allow States to provide Federal funds to assist in providing alternative placements. Section 611(f)(4) of IDEA '97 creates a new category

of subgrants that State educational agencies (SEAs), under certain circumstances, will make to local educational agencies (LEAs) for capacity building and improvement. The purpose of these subgrants is to address particular needs that are not readily addressed through formula assistance, and to enable SEAs to use these subgrants to promote innovation, capacity building, and systemic improvement.

One of the permissible activities for which these funds can be used is "[d]irect services, including alternative programming for children who have been expelled from school." See section 611(f)(4)(B)(i). These funds could be used to assist in funding the costs of providing appropriate interim alternative educational placements, made in accordance with section 615(k)(1) and (2) of IDEA '97.

The amount of the State's total Part B grant retained by the State for State-level activities also could be used for this purpose. Funds that a State sets aside may be distributed to LEAs, at the State's discretion, in any manner determined appropriate by the State.

On March 12, 1999, the Department published final regulations implementing statutory changes to IDEA made by IDEA '97. Numerous comments were received on the proposed regulations, particularly in the area of student discipline, and these comments were carefully considered in the development of the final regulations. I believe that these regulations help to address the concerns of your constituents who see the need for school personnel to immediately remove a dangerous student from a school in order to ensure the safety of the school environment.

Your constituent also may wish to suggest to his colleagues that they contact the Alaska SEA for technical assistance. The contact information for the office of Special Education Programs that serves Alaska is:

Ms. Diann Brown
Alaska Department of Education
801 West 10th Street, Suite 200
Juneau, Alaska 99801-1894
Phone - (907) 465-2971

If questions are raised that the Alaska SEA cannot respond to, the SEA could request technical assistance from the Regional Resource Center (RRC) in its region or contact this Office for further assistance. The RRC that serves Alaska is:

Western Regional Resource Center (WRRRC)
Richard Zeller, Director 1268 University
of Oregon Eugene, Oregon 97403-1268 Phone
- (541) 346-5641 Fax - (541) 346-5639

The Office of Special Education Programs (OSEP) recently funded several partnership grants to assist in the implementation of IDEA '97, and one of these projects could be a source of technical assistance for your constituent and his colleagues.

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 '97 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.

I hope that your constituent finds this explanation helpful.. If he or his colleagues would like further assistance, they should contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of the Office of Special Education Programs at (202) 205-5507, or (202) 205-9053, respectively.

Sincerely,

Judith E. Heumann
Assistant Secretary

cc: Ms. Diann Brown
Alaska Department of
Education