



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

NOV 19 1999

Mr. Raymond W. Bryant
Director
Department of Special Education
Montgomery County Public Schools
850 Hungerford Drive
Rockville, Maryland 20850-1747'

Dear Mr. Bryant:

In your letter to Lois Taylor of November 16, 1999, you ask for clarification as to the responsibility of Montgomery County Public Schools (MCPS) to provide children with disabilities with a free appropriate public education (FAPE) in the least restrictive environment (LRE). Specifically, you ask about the Department's position on MCPS' proposed "movement of students out of special education centers into more normalized sites as would be found on the campus of an elementary school."

The LRE provisions of the regulations under Part B of the Individuals with Disabilities Education Act (IDEA) are set forth at 34 CFR §§300.550-300.556. Section 300.550(b) requires that MCPS ensure that:

- (1) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (2) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Thus, the IDEA establishes a presumption that children with disabilities will be educated in classes and settings with nondisabled children unless the disabled child's education cannot be satisfactorily achieved in those classes and settings. It would be inconsistent with the requirements of Part B for MCPS to educate a child with a disability in a special center that does not include nondisabled children if that child's education can be achieved satisfactorily in a school that educates children with and without disabilities. The placement decision for each child with a disability must be made, at least annually and based on the child's IEP, by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. 34 CFR §300.552(a)(1) and (b)(1) and (2). Each child's placement must be as close as possible to the child's home, and unless the child's IEP requires some other arrangement, each child with a disability must be educated in the school that he or she would attend if nondisabled. 34 CFR §300.552(b)(3) and (c).

Furthermore, public agencies must ensure that children with disabilities are not removed from education in age-appropriate regular education classrooms solely because of needed modifications in the general curriculum. 34 CFR §300.552(e). In addition, children with disabilities must be placed so that they participate with nondisabled students in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the individual child with a disability. 34 CFR §300.553. These requirements may be especially important to keep in mind when placing students for whom interaction with age-appropriate nondisabled peers is important to their development of appropriate social interaction and behavior skills.

MCPS must also ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. 34 CFR §300.551(a). This continuum must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. This does not mean that MCPS must establish and maintain special schools, but rather that, if a determination is made, consistent with the requirements of §§300.550-300.554, that placement in a special school is necessary in order to provide FAPE to a particular child with a disability, MCPS must ensure that such placement occurs.

If MCPS, after making placement determination consistent with the requirements of 34 CFR §§300.550-300.554, proposes to change the placement of a child with a disability (including changing the placement of a child with a disability from a special school to a school that includes nondisabled children), MCPS must follow the procedures that Part B requires for changes in placement, including the provision of prior notice to the parents, as required by 34 CFR §300.503.

If you have any further questions of this matter, please feel free to contact Ms. Taylor or Claudia Brewster, the Office of Special Education Programs' Part B State contact for Maryland.

Sincerely,

Patricia J. Guard
Acting Director
Of-ice of Special Education Programs

cc: Carol Ann Baglin