



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAR 24 2000

Thank you for your recent letter addressing your efforts to obtain appropriate services for \_\_\_\_\_ in \_\_\_\_\_, South Carolina. It is not clear from your letter whether \_\_\_\_\_ receives services to address his attention deficit disorder (ADD) under Part B of the Individuals with Disabilities Education Act (Part B) or Section 504 of the Rehabilitation Act of 1973 (Section 504).

Part B is a Federal program administered by the Office of Special Education Programs which provides funds to States, and through States, to local school districts to meet the unique needs of eligible children with disabilities. Part B requires States and local school districts to make a free appropriate public education (FAPE) available to all children who are eligible to receive services. FAPE includes the provision of special education and related services which meet State educational standards and Part B requirements. These services must be provided as written in the child's Individualized Education Program (IEP) and at no cost to parents. All children with disabilities, regardless of the severity of their disabilities, are entitled to be educated in the least restrictive environment appropriate according to their unique needs.

To receive services under the Part B program, a child must be evaluated to determine: (1) whether the child has a disability and (2) whether the child, because of the disability, needs special education and related services. The initial evaluation must be a full and individual evaluation that assesses the child in all areas related to the suspected disability and uses a variety of assessment tools and strategies.

Because of its responsibility resulting from FAPE and child find requirements of Part B, a local education agency (LEA) may not refuse to evaluate the possible need for special education and related services of a child with a prior medical diagnosis of ADD solely by reason of that medical diagnosis. However, a medical diagnosis of ADD alone is not sufficient to render a child eligible for services under Part B. A State may require a medical diagnosis of ADD as part of an evaluation to determine eligibility under the "other health impaired" category, for example, but it must also ensure that any other necessary evaluations by other professionals are conducted and considered as part of the eligibility determination process. It is unclear from your letter whether \_\_\_\_\_ suffers from other conditions related to stomach and emotional health but these may need to be similarly evaluated.

If a child qualifies for services under Part B, the school district must conduct a meeting to develop an IEP for the child. Parents play a key role, along with school personnel, in developing, reviewing and revising a child's IEP, and in determining the nature and extent of the child's special education and related-services needs. Through the IEP process, a parent can discuss with school officials different approaches that would appropriately meet their child's unique needs. Each IEP team determination is an individual one, and services must be tailored to the needs of a particular child. Each child's

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educational placement must be based upon the child's IEP. Parents must be members of the IEP team and of the group determining eligibility and placement of their child.

If a parent requests a change in their child's educational program, and the public agency refuses their request, it must provide the parent with a written notice explaining its action. A public agency that proposes or refuses to begin or change the identification, evaluation or educational placement of a child or the provision of FAPE to a child must provide written notice to the parents of the child. This notice must include a description of the action proposed or refused; an explanation of why the agency proposes or refuses to take the action; a description of any other options considered and the reasons why they were rejected; a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action; a description of any other factors that are relevant to the agency's proposal or refusal; and a statement that the parents of a child with a disability have protection under the procedural safeguards of Part B. If this notice is not an initial referral for evaluation, it must inform parents how to obtain a copy of a description of the procedural safeguards and of sources to contact to obtain assistance or understanding of the provisions of Part B.

Parents who disagree with a decision by a public agency regarding the identification, evaluation, or educational placement of their child, or the provision of FAPE to their child, have the right to request an impartial due process hearing and resolve disputes through a mediation process that, at a minimum, must be available whenever a due process hearing is requested. The mediation and due process provisions of Part B were specifically designed to provide parents with an independent forum for resolving disagreements with a public agency.

Also, parents who believe that a violation of the IDEA has occurred can file a written, signed complaint with their State Educational Agency (SEA), which must resolve any complaint that it receives within 60 calendar days. To file a request for a due process hearing or to file a complaint, parents can contact their SEA at the address and telephone number provided in the enclosed State Resource Sheet for the State of South Carolina. This resource sheet was prepared by the National Information Center for Children and Youth with Disabilities (NICHCY). NICHCY also has information about IDEA and its regulations, specific disabilities and other useful topics. You can contact NICHCY at their website located at <http://www.nichcy.org/index.html> or at the following address and toll-free telephone number:

NICHCY  
P.O. Box 1492  
Washington, D.C. 20013  
Telephone: 1-(800) 695-0285

Even if a child with ADD is found not to be eligible for services under Part B, the requirements of Section 504 may be applicable. For information about Section 504 and procedures for services to children with ADD, you may want to contact the Office of Civil Rights official at the following address and telephone number.

Office for Civil Rights, Region IV  
US Department of Education  
61 Forsyth St. S.W., Suite 19T70  
Atlanta, Georgia 30303-3104  
(404)562-6350

Page 3

To provide additional information about working with children who have ADD, I have enclosed the documents: *Where Do I Turn?*; *Attention Deficit Disorder, What Parents Should Know*, *Beyond the Myths*, and *Adding Up-the Facts*. Although these documents were issued prior to the Individuals with Disabilities Act Amendments of 1997, they contain information that may still be useful. If you need further assistance, please contact Ms. Debra Jennings of my staff, at (202) 260-5250.

Sincerely,

A handwritten signature in black ink that reads "Kenneth R. Warlick". The signature is written in a cursive style with a large initial 'K'.

Kenneth R. Warlick  
Office of Special Education  
Programs

Enclosures