



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

AUG 13 1998

Jim Surratt, Superintendent  
Wake County Public School System  
3600 Wake Forest Road  
P.O. Box 28041  
Raleigh, North Carolina 27611-8041

Dear Superintendent Surratt:

Your letter of May 22, 1998, written to Senator Lauch Faircloth, was forwarded, by letter dated June 12, 1998, to Secretary of Education Richard W. Riley for response. In his letter, Senator Faircloth requested that the Department respond directly to your inquiry and provide a copy of that response to his office. Senator Faircloth's letter written on your behalf has been forwarded to the Department's Office of Special Education Programs (OSEP), which administers Part B of the Individuals with Disabilities Education Act (Part B) recently revised by the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97).

In your letter, you describe a situation involving a Middle School student who is classified as a student with disabilities under your State's designation of behaviorally emotionally handicapped (BEH). Enclosed with your letter is a copy of a note, which you describe as written by the student, which contains statements potentially threatening the safety of teachers in the school. As a result, you seek "guidance on the placement of this student and some assurance for the safety of others around him." You have not indicated whether this student currently is receiving special education and related services in accordance with Part B, but we are assuming, for purposes of this response, that this is the case.

It has always been the position of this Administration that our schools must be safe, disciplined, and drug-free. IDEA '97 expands the authority of school officials to protect the safety of all children, while ensuring that essential rights and protections are available to students with disabilities. Specifically, §615(k) of IDEA '97 addresses the options available to school authorities in disciplining disabled students and sets forth procedures that must be followed in taking disciplinary actions. A copy of that section also is

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enclosed for your information. In fact, IDEA '97 provides a specific vehicle to school officials for dealing with students such as the one that prompted your inquiry.

We believe that the assessment of the seriousness of any potential threat should initially be conducted by those who are familiar with the student and his disabilities. It is important to point out that a student's placement can be changed immediately if the school and parents are in agreement. In the case you describe, it would be possible to place the student in a setting to assess his actions and emotional status. If the parents are in agreement with the placement proposal of the school district, no further procedural steps are required.

In situations where there is no parental agreement, school officials may discipline the student by excluding him for up to 10 school days. School officials may also seek to unilaterally change the student's placement. Under §615(k)(2), school officials may go to an expedited hearing to ask the hearing officer to place the student in an appropriate interim alternative educational setting for a period of up to 45 days if the student is substantially likely to injure himself or others. Previously, only a court had that authority.

In determining what placement would constitute the appropriate interim alternative educational placement for such students, the requirements of §615(k)(3) of IDEA '97 would apply. In situations like the one you describe it is especially important that the student receive services and modifications designed to address the behavior that gave rise to the need to remove the child. See, §615(k)(3)(B)(ii).

We appreciate your concern for the specific situation prompting your inquiry and the broader issue of appropriate services for children with disabilities while ensuring school safety for all. For additional guidance about specific placement options in North Carolina, you also may wish to contact the named official for the office for exceptional children. His address and telephone number are:

Mr. E. Lowell Harris  
Director  
Exceptional Children Division  
North Carolina Department of Public  
Instruction  
301 N. Wilmington Street  
Raleigh, North Carolina 27601-2825

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Telephone (919) 715-1569

We hope that you find this explanation helpful. If you have further questions, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of OSEP at (202) 205-5507, or (202) 205-9053, respectively.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Hehir", with a stylized flourish at the end.

Thomas Hehir  
Director  
Office of Special Education  
Programs

Enclosure

cc: E. Lowell Harris  
North Carolina Department  
of Public Instruction