



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

MAR 11 1998

Dear

Secretary Richard W. Riley has asked me to respond to your letter of May 8, 1997. In your letter, you expressed your opposition to requiring special education services in adult prisons. I am sorry for the delay in responding to your letter.

On June 4, 1997, the President signed the Individuals with-Disabilities Education Act [(IDEA)] Amendments of 1997. That legislation includes a number of provisions regarding special education services for youth with disabilities in adult prisons, which reflect careful and extensive consideration of the issue by the Congress. These changes to IDEA allow States significant flexibility in serving incarcerated youth.

For example, States need only make available special education services to youth with disabilities, aged 18 through 21, who, in the educational placement prior to their incarceration in an adult correctional facility: (a) were actually identified as being a child with a disability under the IDEA; or (b) had an individualized education program under the IDEA. The new law also provides that youth with disabilities who are convicted as adults and in adult prisons need not participate in general testing programs conducted by the State, and that the provisions requiring transition services to promote movement from school to employment and other post school activities do not apply to individuals in adult prisons whose eligibility under the IDEA will end because of their age, before they will be released from prison.

In addition, the educational program and placement of eligible youth with disabilities who are convicted as adults and in adult prisons can be modified if the State shows bona fide security or compelling penological interests that cannot otherwise be accommodated. This provision allows a team of professionals to address these interests on a case-by-case basis, and to respond to extreme circumstances, such as where a youth with disabilities poses as immediate threat to self or others, appropriate modifications or limitations to the educational program or placement, including suspension of services for an appropriate period of time. The Department published proposed regulations under the IDEA, which are consistent with the requirements of the statute, as outlined above.

The Department believes that providing special education to incarcerated youth with disabilities is good public policy. In California, a majority of incarcerated youth ages 21 or younger are serving sentences of 4 years or less. These young people will be released back into society within a relatively short period of time. The majority of the studies that have

looked at the benefits of prison education programs have shown that education has a positive effect on reducing recidivism and a positive effect on post-release employment success.

This is hardly surprising in light of the fact that nationwide, the literacy of prisoners is very low. About one-third of the prisoners are unable to perform such simple job-related tasks as locating an intersection on a street map, or identifying and entering basic background information on an application. Another one-third are unable to perform slightly more difficult tasks such as writing an explanation of a billing error or entering information into an automobile maintenance form. Only about one out of twenty can do things such, as use a schedule to determine which bus to take. Young prisoners with disabilities are among the least likely to have the skills they need to be able to hold a job. For them, education is probably the only opportunity they have to become productive, independent members of society.

I hope that this letter clarifies the requirements of the IDEA on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Hehir", followed by a small mark that looks like a date "1/12".

Thomas Hehir  
Director  
Office of Special Education Programs