



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 16 1998

Dear :

Your letter to U.S. Senator Richard H. Bryan, dated December 28, 1997, which was initially sent to the U.S. Department of Education's Office of Legislation and Congressional Affairs, was forwarded to the Office of Special Education Programs for response. Also enclosed with your letter to Senator Bryan was your letter dated October 15, 1997, written to President Bill Clinton and First Lady Hillary Rodham Clinton, regarding your work with "at risk" children and your concerns about recent legislation affecting the education of children with disabilities. In both of these letters, you express dismay about some of the provisions in the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97), regarding the use of positive behavior interventions and supports for students whose disabilities have behavioral components. You are particularly concerned that the requirement for a functional behavioral assessment is not a sufficient mechanism for meeting the needs of these students, because it does not address the child's strengths in a manner that "honors" the child.

I would like to shed some light on what appears to be confusion about some of the new requirements of IDEA '97 affecting children whose disabilities have behavioral components. If the "at risk" children with whom you are involved also include children with disabilities who are eligible for services under IDEA '97, the following discussion of the provisions of IDEA '97 may be applicable.

IDEA '97, signed into law by President Clinton On June 4, 1997, was passed by nearly unanimous votes in both the House and Senate. In brief, IDEA '97 seeks to bridge the gap that has too often existed between disabled students and their nondisabled peers by removing barriers to placing disabled students in regular classroom settings, requiring the involvement of the regular classroom teacher in the development of each disabled student's individualized education program (IEP) if the child is or may be participating in the regular education environment, and ensuring that what every disabled student learns is linked to the general education curriculum taught to other students.

The provisions referred to in your letters are §614(d)(3)(B)(i) and §615(k)(1)(B) of IDEA '97, which reflect the IEP and discipline provisions, respectively. With respect to the IEP

provisions, which will take effect beginning July 1, 1998, the IEP team, in developing each disabled child's IEP, must consider "the strengths of the child and the concerns of the parents for enhancing the education of their child." §614(d)(3)(A)(i) of IDEA '97. In addition, the IEP team must consider special factors in appropriate situations. For example, §614(d)(3)(B)(i) states that "in the case of a child whose behavior impedes his or her learning or that of others, [the IEP team] consider[s], when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior." This provision would be applicable regardless of whether disciplinary action is contemplated. In addition, §615(k)(1)(B)(i) provides that, "if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the suspension described in subparagraph (A), the agency shall convene an IEP meeting to develop an assessment plan to address that behavior." Section 615(k)(1)(B)(ii) provides that, if a child is disciplined under the terms of §615(k)(1)(A), and the child already has a behavioral intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior, either before or not later than 10 days after taking disciplinary action in accordance with §615(k)(1)(A). Section 615(k)(3)(B)(ii) also provides that, if a local educational agency (LEA) places a child in an appropriate interim alternative educational setting for drug or weapon offenses described in §615(k)(1) and (2), the interim alternative educational setting must provide services and modifications designed to address the behavior giving rise to that interim placement so that the behavior does not recur.

We very much appreciate your taking the time to write and share your concerns with us. It is apparent from your letters that you are deeply committed to working in a constructive and supportive manner with children who experience emotional difficulties. We believe that the principles on which the above provisions of IDEA '97 were premised, i.e., addressing each student's unique strengths and encouraging positive behaviors, are also important. A key provision in IDEA '97 is using positive behavioral interventions and supports to ensure that disabled students can participate fully in classes with their nondisabled peers and, through the IEP process, meaningful measures are undertaken to ensure that children with disabilities do not engage in behaviors that result in disciplinary actions which may prevent their participation in classes with nondisabled peers.

We thought that you might find it useful to know that this Department funds a number of projects that focus on the use of positive behavioral interventions and supports. In particular, the following resources may be of assistance to you. The Office of Special Education and Rehabilitative Services funds a Center for Effective Collaboration (CEC) for children with emotional and

behavioral problems, located at the American Institutes for Research (AIR) in Washington, DC. They provide information exchange on issues and materials related to positive behavioral supports, strategies, and interventions to help students with or at risk of emotional disturbance. Their website is [www.AIR-DC.ORG/CECP/CECP.html](http://www.AIR-DC.ORG/CECP/CECP.html), or you may wish to call them directly by telephone. Some individuals you may wish to contact there would be Drs. David Osher (202-944-5373) or Mary Quinn (202-944-5386).

The Beach Center on Families and Disability, a Research and Training Center on Positive Behavioral Support, located at the University of Kansas, can be reached at (785) 864-7600. Their website is <http://www.lsi.ukans.edu/beach/pbs.htm>.

An additional source of information is the Institute on Violence and Destructive Behavior at the University of Oregon. Their web site is <http://interact.uoregon.edu/ivdb/ivdb.html>.

We hope that you find the above explanation and information referrals helpful. If you would like further assistance, please contact Mr. Charles Laster, the Nevada State contact person in the Monitoring and State Improvement Planning Division in the Office of Special Education Programs, at (202) 205-9056.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas A. Quinn".

Director  
Office of Special Education  
Programs

cc: Opal Winebrenner  
Senator Bryan's Office