



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

APR 21 1999

Dear [REDACTED]

This is in response to your email communication to President Clinton dated January 21, 1999 regarding safe schools and students with disabilities.

It has always been the position of this Administration that our schools must be safe, disciplined, and drug-free. The Individuals with Disabilities Education Act (IDEA), as amended by the IDEA Amendments of 1997 (IDEA '97) expands options available to school authorities in disciplining students with disabilities, while safeguarding essential rights and protections for students with disabilities. Following passage of the IDEA Amendments of 1997, the Department published in the Federal Register, at 62 Fed. Reg. 55026 (Oct. 22, 1997) a Notice of Proposed Rulemaking (NPRM) to implement statutory changes made by IDEA '97 to regulations implementing Part B of IDEA (Part B). Following publication of the NPRM, there was a 90-day public comment period, and approximately 6,000 public comments were received. A significant number of these public comments concerned disciplining of students with disabilities, and many of the commenters expressed concerns similar to those set out in your email communication to the President.

On March 12, 1999, the Department published in the Federal Register, at 64 Fed. Reg. 12406, final regulations implementing changes made to Part B by IDEA '97. Very serious consideration was given to issues concerning student discipline and school safety and **the need to take appropriate and prompt steps** to address behavior, while not imposing unduly burdensome requirements in this area. In your email communication, you identify two specific concerns regarding a school district's ability to remove a student with a disability who engages in violent behavior for more than ten school days in a school year, as well as the nature and extent of educational services to be provided to a disabled student who is removed from his or her current educational placement for more than ten school days in a school year.

In the preamble to the final regulations on page 12415 of volume 64 of the Federal Register, there is an extensive discussion of issues surrounding the discipline provisions in the final regulations, which are found at 34 CFR §300.121(d) and §§300.519 - 300.529. These final regulations clarify, among other matters, that there are no absolute limits on the amount of time that a child with a disability can be removed from his or her current educational placement in a school year and the nature and extent of educational services provided on the eleventh day on which a student is removed from his or her current educational placement in a school year. The preamble to the final regulations also includes seven commonly asked questions and answers in the area of student discipline. A copy of the final regulations, including the referenced portions of the preamble, is enclosed for your information.

We hope that you find this explanation and the enclosed information helpful. If we can be of further assistance, please contact Dr. JoLeta Reynolds or Ms. Rhonda Weiss of OSEP at (202) 205-5507, or (202) 205-9053, respectively.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs

Enclosure