



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

JUL 25 2000

The Honorable Sue Myrick
Member, U.S. House of Representatives
318 South Street, Suite B
Gastonia, NC 28052

Dear Ms. Myrick:

Your letter to Ms. Libby Upshur, Congressional Affairs Specialist with the U.S. Department of Education, has been forwarded to the Office of Special Education Programs (OSEP) for response. OSEP is responsible for administering the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). In your letter, you request information that may be helpful in addressing your constituents' concerns about the possibility that the Metro School, a special school operated by the Charlotte-Mecklenburg Schools, will be closed. We have carefully reviewed the materials included in your letter. Below we offer information and suggestions that may be helpful in resolving your constituents' issues.

Decisions about closing facilities are determined by local educational agencies (LEAs). OSEP does not have the authority to make such decisions or to require LEAs to take action regarding school closings. However, OSEP is responsible for ensuring that each State ensures that each educational program for children with disabilities administered in the State meets the requirements of Part B. Among these requirements, States must ensure that each LEA meets the requirements of 34 CFR §§300.550-300.554 regarding the least restrictive environment.

34 CFR §300.551 requires that each public agency make available a continuum of alternative placements to meet the needs of children with disabilities. The continuum of placements includes instruction in regular classes, special classes, *special schools*, home instruction and instruction in homes and hospitals. The placement decision for any given child with a disability is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. This group must make the placement decision in accordance with the requirements of 34 CFR §§300.550-300.554.

In placing children with disabilities, each public agency must ensure:

That to the maximum extent appropriate, children with disabilities ... are educated with children who are not disabled; and that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. See 34 CFR §300.550(b).

When Assistant Secretary Judith Heumann visited the Metro School in April 1999, she became concerned that the Charlotte-Mecklenburg Schools may not have been in compliance with the LRE requirements for Part B. Her concerns were communicated to the North Carolina Department of Public Instruction (NCDPI). Subsequently, NCDPI reviewed the district's level of compliance with issues around LRE and placement of students into a separate public school, and completed a curriculum study and investigation of inclusive activities. NCDPI is currently working with the district to appropriately address identified areas of non-compliance for LRE and curriculum and instruction issues through corrective action plans. NCDPI informed OSEP of the actions that it has taken with regard to the situation in the Charlotte-Mecklenburg Schools.

If your constituents have specific concerns about their child's special education program, the following options are available to them.

One option available to parents to resolve a disputed issue relating to the identification, evaluation or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child, is that of requesting a due process hearing from the school district. In a due process hearing, the parties present information to an impartial hearing officer through the presentation of witnesses and relevant evidence. Upon the conclusion of the hearing, the hearing officer renders findings of fact and conclusions, including any actions that are to be taken to address the problem. Once a final decision is rendered, the hearing officer's decision may be appealed to the NCDPI.

Once a due process hearing is requested the public agency must offer mediation to the parties. Mediation involves the parent and school officials meeting together with an impartial third-party mediator to discuss and attempt to resolve any differences. Mediation is a voluntary option on the part of both parties. In North Carolina, mediation is offered prior to parents requesting a due process hearing.

Another option for resolving disputes between parties is using the State complaint procedures. The State of North Carolina has in place "State Complaint Procedures" pursuant to Part B of the Individuals with Disabilities Education Act (Part B). See 34 CFR §§300.660-300.662 (copy enclosed). These regulations require that, within 60 calendar days of receiving a written complaint, the NCDPI must provide the complainant with a written decision that addresses each allegation in the complaint, and contains (1) findings of fact and conclusions, and (2) the reasons for the final decision.

Your constituents may send complaints directly to NCDPI at the following address:

E. Lowell Harris, Director
Exceptional Children Division
Department of Public Instruction
301 N. Wilmington Street, Education Bldg. #570
Raleigh, NC 27601-2825
(919) 715-1565

As you can see from the above information, IDEA '97 establishes several options that are available to parents involved in disagreements with school districts over special education and related services. To secure the most immediate results for your constituents' child, it may be advisable for them to meet with the appropriate district personnel and discuss the current Individualized Education Program (IEP), suggesting any changes and/or modifications that could be made. If this approach proves ineffective, your constituents may consider exercising one or more of the options described above.

Enclosed for your constituents' review is a list of resources in the State of North Carolina. They may want to contact one of the listed Parent Training and Information Projects for additional information and suggestions. Another invaluable source of information is the U.S. Department of Education Individuals with Disabilities Education Act (IDEA) '97 Homepage at <http://www.ed.gov/offices/OSERS/IDEA>.

Our office strongly supports the spirit of IDEA '97 in fostering individual academic success and in providing each individual child with the appropriate special education programs and services regardless of the child's educational placement. If we may be of further assistance, please let us know. Should you have any questions, please contact Gregg Corr of my staff at (202) 205-9027. Again, thank you for writing.

Sincerely,



Kenneth R. Warlick
Director
Office of Special Education
Programs

Enclosures