



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

APR 20 2000

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in response to your letter to Secretary of Education, Richard W. Riley, on behalf of your child, who has a learning disability. In your letter, you expressed concern about your child's placement.

During a telephone conversation with a member of my staff, you stated that you are very pleased with many of the services that are provided by your school district. You particularly mentioned the district-wide training that has been provided for teachers in the area of phonemic awareness. However, you also stated that you are concerned because the school district moved your child from a resource room into mainstreamed classes without notifying you. You asked whether the action taken by the school district without informing you is consistent with the requirements of Part B of the Individuals with Disabilities Education Act (Part B).

Part B requires that each child who qualifies for services under Part B must be placed in the least restrictive environment (LRE) where the child's individualized education program (IEP) can be implemented. Each State must ensure that a continuum of alternative placements, which includes education in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions (see 34 CFR §300.551(b)), is available to meet the needs of children with disabilities for special education and related services. In implementing the LRE requirements of Part B, the overriding rule in determining a child's placement is that each child's placement must be determined on an individual basis, and may not be based solely on the factors such as the category of disability, configuration of the service delivery system, availability of staff, or administrative convenience. A school district must ensure that each child's IEP team, which includes the child's parent(s), is convened to determine an appropriate program of special education and related services for the child, and the extent, if any, to which the child will not participate with nondisabled children in the regular class. A group, which must include the parent(s), using the continuum of alternative placements, determines the placement in which the child's IEP can be implemented.

If the school district changes the educational placement of a child, the school district must give the parent(s) prior written notice of the change of placement. In determining whether a "change in educational placement" has occurred, the following factors must be taken into consideration: (1) whether the educational program set out in the child's IEP has been revised; (2) whether the child will be able to be educated with nondisabled children to the same extent; (3) whether the child will have the same opportunities to participate in nonacademic and extracurricular services; and (4)

whether the new placement option is the same option on the continuum of alternative placements. In examining these factors, if it appears that a substantial or material change to the child's educational program has occurred, the public agency must provide prior written notice that meets the content requirements of 34 CFR §300.503.

If you feel that the school district violated requirements of Part B by not providing you with prior written notice of a change in your child's educational placement, you may request a due process hearing in accordance with the requirements at 34 CFR §300.506. You also have the option of filing a complaint with the State if you believe that the school district has violated a requirement of Part B. The Part B complaint procedures are described in the enclosed regulations at 34 CFR §§300.660 -300.662. For more information, or to file a complaint with the Missouri Department of Special Education, contact:

Ms. Melodie Friedebach
Special Education Programs
Department of Elementary and
Secondary Education
P.O. Box 480
Jefferson City, Missouri 65102-0480
Telephone: (573) 751-2965

Although the school district did not initiate an IEP meeting for your child prior to "mainstreaming" your child, you have the right to request that the school district conduct an IEP meeting at this time to review and, if necessary, to revise, your child's IEP. See item 20 of Appendix A to the Part B regulations. At the IEP meeting, it would be appropriate to discuss your child's placement, and any modifications that you feel that your child needs. You may want to discuss the modifications that you feel are needed to help your child succeed in the regular classroom, i.e., providing books on tape, using a cubical during tests, providing copies of textbooks to keep at home, and notifying you about upcoming tests in each subject and about daily assignments.

In addition, you had concerns about the qualifications of paraprofessionals who are working with your child. The Part B regulation at 34 CFR §300.382 requires States to ensure that all personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities. You may contact the State Director of Special Education at the address and telephone number provided in this letter to obtain information about the required qualifications for paraprofessionals in Missouri. You also suggested that a list of trained substitutes for paraprofessionals should be available. You may wish to make this suggestion to the local director of special education, or the State Director of Special Education.

You also stated that you feel that the school district is discriminating against your child because of the way your child's grades are reported on report cards. Issues of discrimination are handled by the Department's Office for Civil Rights. You can contact them at the following address and telephone number:

Office for Civil Rights, Kansas City Office
U.S. Department of Education
10220 N. Executive Hills Boulevard
8th Floor, 07-6010
Kansas City, Missouri 64153-1367
(816) 880-4200; FAX (816) 891-0644; TDD (816) 891-0582
Email: OCR_KansasCity@ed.gov

I hope this information is useful. If you need further assistance, please feel free to contact Lena Mills, a member of my staff, at (202) 205-5386.

Sincerely,



Kenneth R. Warlick
Director
Office of Special Education
Programs

Enclosure