

THE SPECIAL EDUCATION MUCKRAKER

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(Well, somebody's got to do it.)

SPECIAL REPORT
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GAO STUDY: '97 IDEA DISCIPLINE AMENDMENTS - NEITHER IMPLEMENTED NOR ENFORCED

On June 20, 2003 the General Accounting Office released a study done for Senator Ted Kennedy about how the IDEA's 1997 amendment on disabled student discipline had been implemented. The report - as noteworthy for what it does *not* say as for what it does - should have been a real shocker, but its implications have been buried. Like many of the disabled kids whose hard time it describes.

WHAT'S MISSING ENTIRELY FROM GAO'S STUDY?

? Any mention of the fact that while this GAO survey, done in 2002-2003, found 1.4% of disabled students had been disciplined, four separate audits done by the USDOE's Inspector General the previous year showed a .04% rate of disabled student discipline, an astronomical one-year increase. The USDOE-OIG found that LEA's and SEA's were reporting discipline erratically, if at all: GAO agreed, repeatedly citing data accuracy and completeness issues. The real numbers may be far worse.

GAO'S IMPLICIT AND MOST IMPORTANT FINDINGS

? There is *widespread and pervasive* LEA and SEA non-compliance with IDEA's 1997 disabled student disciplinary provisions, especially "mandates" that disabled students excluded from their regular schools more than 10 days - those consigned to "alternate educational placements" for disciplinary reasons - actually receive education/speducation and "appropriate" related services while doing the hard time.

? *Many* disabled students sentenced to long term "alternate educational placements" are actually assigned to "homebound placements," i.e., staying home. *Some* of these students receive *some* instruction while at home; *some* receive packets of materials they are supposed to teach themselves; *some* receive no instruction whatsoever, and *most* cannot receive related services reflected on their IEP's while on "homebound." In other words, the IDEA, *as actually implemented by LEA's and SEA's, has not served to provide disabled students who are subject to disciplinary exclusions from school with the services and special education they concededly need in order to improve their behaviors and learning.*

? No mention at all was made of the fact that many States require that an adult be present when someone from the school district is teaching the suspended home-bound student or providing him/her with related service sessions in the home. No mention of the fact was made that if a student comes from a single-parent family, or a family where both parents *must* work full time, no adult may be available to chaperone while an instructor or

service provider is to visit, nor while the student is “home bound” at all – unless a parent stops working and earning a pay check.

What about those instances in which a single parent cannot afford to lose weeks’ worth of earnings? Is a school district legally entitled under the IDEA to compel a working parent to go on welfare in order to facilitate his or her disciplined disabled child’s receiving a “free” appropriate public education? Although the GAO report noted that LEA’s and SEA’s complained that OSEP had failed to give them adequate guidance regarding issues such as how many in-school, short-term suspensions “add up ” to one long-term suspension warranting provision of special education and related services, GAO made no mention of the serious problems such suspensions often cause for parents at all.

REALITY IS BAD ENOUGH –
WHY SHOULD THEY TELL THE TRUTH?¹

In fact, *GAO interviewed no parents to verify administrators’ claims or paperwork.* While it opines that discipline its data is *probably* reliable because the survey replies it received agreed with the information secured during site visits, the report states that GAO “did not verify the reported data.” Since the internet is full of parental complaints that IEP’s for regular in-school special ed. programs, services, modifications and accommodations are routinely not implemented, and that LEA’s create paperwork showing that services really *have* been provided – on days when kids were absent from school – it would appear that sole reliance on SEA and LEA officials’ representations and paperwork is singularly unwarranted.

GAO pointed out that USDOE’s monitoring systems were inadequate to catch erroneous discipline reports. In prior audits, the USDOE-OIG found that most IDEA data submitted by LEA’s and SEA’s was highly inaccurate and unreliable. Although USDOE claims its revised Continuous Improvement and Monitoring System (CIMP) has been revised to insure greater data validity, unless it actually visits LEA’s and verifies individual records by hand – including physically tallying heads – the likelihood that various inaccurate LEA and SEA computer reports, all generated from the same inaccurate database, will “agree” is great, while the real numbers will show something entirely different. And investigators around the country, from various federal, state and local agencies have found that some LEA’s systematically maintain special education enrollment, attendance and dropout data which is, to be blunt, garbage in: garbage out. At best.

Editorial Comment:

THE SPECIAL EDUCATION MUCKRAKERS SAY –

OSERS/OSEP’s 24th Annual Report to the Congress is way overdue and, we hear, embargoed in the Government Relations office of the USDOE. That report would give nation-wide data for disabled student suspensions and expulsions for the 2001-2002

¹ Patrick Sky, 1967.

school year and show if the rapid increase found in the 3 states GAO studied for disabled students' disciplinary exclusions from school represents an aberration or an alarming national trend. If the latter, we can expect that proposed IDEA amendments to make removing disabled kids from their "regular" schools even easier would result in huge numbers of disabled kids allegedly placed in alternative "home bound" "placements" – who were actually out on the streets, unsupervised, for lengthy periods of time. Not Days: Weeks. Months. Years. No education. No services. No remediation. No legal obligation to be in school. A prescription for serious trouble.

Speaking of embargoes, the GAO study was dated May 20, 2003 and noted that it would be released one month later unless the requester agreed to an earlier release date. It was released on June 20th. Why was this report kept under wraps for a solid month?

From what GAO found in its limited survey, "alternative" placements for disabled students subject to long term disciplinary removals were the same as for non-disabled students. What happened to specialized placements designed to help disabled students learn appropriate behaviors and remediate the disability-related problems which caused the behaviors in the first place? Who runs these "alternative" placements, anyway? And how successful are they?

Why hasn't OSEP started collecting per-program or per-school "outcomes" data?

Why hasn't No Child Left Behind been enforced so as to require that uniform individual School Report Cards be published for each such alternative school so that parents, the public and the Congress can evaluate their effectiveness? What's the secret?

What parents, parent advocates and parent-side attorneys say, rather uniformly throughout the country is that these alternative programs are typically – just awful. They offer no real academic remediation. They rarely offer instruction in the "regular" curriculum. Nobody graduates from them with regular diplomas; often, nobody graduates from them at all. They offer few or no supportive services. They rarely have staff or administrators knowledgeable about professionally-diagnosed psychiatric disorders, and their effective management, and often do much more harm than good to severely emotionally disturbed students. Students may finish sentences there and be returned, automatically, to their prior schools or placements, but there is no reason to believe that their problems have been professionally remediated so that they won't engage in the same conduct, and be excluded from school again, the very next day. Many resemble nothing more than day reform schools.

The Congress should direct the GAO to immediately commence a nationally-representative survey of alternative placements into which disabled students are placed for disciplinary infractions, including a thorough review of the objective adequacy and objective success of such programs. The survey should include significant parental interviews. A final report should be provided to the Congress by December 2004. No IDEA discipline amendments should be enacted pending Congressional receipt of the final survey report.

The IDEA should be amended so as to require OSEP to financially penalize SEA's and LEA's for submitting incomplete or inaccurate data and mandate that USDOE randomly verify LEA and SEA reported special education data via on-site visits and physical "tests" of special education enrollment, attendance, suspension, expulsion and program and service provision data.

References:

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