



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DEC 27 1999

[Redacted address block]  
Dear [Redacted name]

This is in response to your letter written to the Office of Special Education Programs (OSEP) received by facsimile transmittal dated [Redacted] in which you seek further clarification regarding OSEP's letter to you dated [Redacted] responding to your inquiry.

As previously explained in our [Redacted] letter to you, in our view, Part B of the Individuals with Disabilities Education Act (Part B) does not require a State to establish and maintain a special school within the State if the services determined necessary for a child by the individualized education program (IEP) team are otherwise made available at no cost to the parents.

In your [Redacted] inquiry, you seek clarification of what is meant by "special schools," one of the alternative placements listed at 34 CFR §300.551(b)(1). In our view, "special schools" does encompass special day schools and special residential schools. However, we do not believe that a State would be required to maintain either type of special school within the State, so long as such a placement is made available at no cost to the parents if determined appropriate for a particular child with a disability.

Your letter of [Redacted] also urges that we interpret 34 CFR §300.552(b)(3) to require that a State maintain an appropriate special school within its jurisdiction in order to meet its obligation to place the child at the appropriate facility located as close as possible to the child's home. In our view, Part B does not require a State that does not maintain a special school within the State to do so in order to be able to meet the requirements of §300.552(b)(3). Under Part B, each child's educational placement must be consistent with the Act's LRE requirements, must be based on the child's IEP, among other factors, and must be in the school or facility as close as possible to the child's home. 34 CFR §300.552(b)(2)-(3). If the group making placements were to determine that a child's IEP could be appropriately implemented in more than one facility, we believe that Part B would require the public agency to place the child at the appropriate facility

located as close as possible to the child's home. In addition, we have reviewed the court decisions that you have called to our attention, and do not believe that these decisions would support the interpretation of Part B that you are urging this Office to adopt.

We hope that you find this additional explanation helpful. ,

Sincerely,

Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs

cc: John Corpolongo  
Oklahoma State Department of Education