



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OCT 6 1999

Mr. Douglas S. Pungler

Attorney

Winston-Salem/Forsyth County Schools

Winston-Salem, NC 27102-2513

Dear Mr. Pungler:

This is in response to your letter of August 2, 1999, written to the U.S. Department (Department) of Education's Office of Special Education Programs (OSEP). Your letter requests clarification about whether parents of other students with disabilities, having been asked by parents of a child with a disability to participate as IEP team members, may be excluded from attending individualized education program (IEP) meetings unless they "truly have special knowledge or expertise regarding a particular child." The letter also expresses concern about whether an autistic child needs applied behavioral analysis (ABA) to receive a FAPE.

The Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97), Pub. L. 105-17, require that once a child has been determined eligible for special education and related services an IEP team be convened to develop the child's IEP. The current regulation governing IEP team members sets forth those individuals who must be members of a child's IEP team, including parents and school officials. The regulations also provide that the parent(s) and public agency may invite other individuals who have knowledge or special expertise regarding the child. 34 CFR § 300.344(a)(6). Section 300.344(c) of the regulations emphasizes that "[T]he determination of the knowledge or special expertise of any individual... shall be made by the parties (parents or the public agency) who invited the individual to be a member of the IEP team." Therefore, parents of an autistic child have the discretion of bringing other parents of autistic children as "consultants" to an IEP meeting if the child's parents believe that these other parents have knowledge or special expertise regarding the child who is the subject of the IEP meeting. The focus of attention for such individuals, as for all who are members of a child's IEP team, is the particular child who is the subject of the IEP meeting.

The Department takes the view that IEP meetings should serve as a vehicle for constructive dialogue between parents and school officials. It is essential that parents be given the opportunity to participate meaningfully as members of the child's IEP team. In many situations, an IEP meeting can be a very intimidating experience for parents, even if the school encourages their active participation. Frequently, parents are assisted greatly at their child's IEP meetings if another person(s) accompanies them.

In responding to your inquiry of whether applied behavioral analysis (ABA) should be provided to a child diagnosed with autism, this is determined on an individual basis by the IEP team. Many educational programs provided to a child with a disability under IDEA '97 may be discussed at the IEP meeting. Concerns and questions regarding a child's IEP, particularly

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whether or not he or she requires an ABA, should be addressed, to the extent appropriate, in the child's IEP meeting.

We hope that you find this explanation helpful. If you would like further assistance, please contact the Office of Special Education Programs and speak with Ms. Camellia Wang at (202) 401-1891 or Dr. JoLeta Reynolds at (202) 205-5507, or you may reach Ms. Suzy Rosen, the North Carolina State contact in the Monitoring and State Improvement Planning Division, at (800) 877-8339 ext. 202-260-3180.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Lowell Harris, Director, Exceptional Children, N.C. Dept. Public Instruction