



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Jan 7 - 1998

Ora Spann, Ph.D.
Director
Office of Programs for Children
with Disabilities
Department of Education
1429 Senate Street
Columbia, South Carolina 29201

Dear Dr. Spann:

This is in response to your letter to the Office of Special Education Programs (OSEP) in which you seek clarification of 34 CFR §300.753(b)(2).

Your letter indicates that, under South Carolina's Board of Education Regulations, a public school may not receive State funds for a child with disabilities unless the child is in an itinerant, resource, self-contained or homebound model for a minimum of five class periods per week. You ask whether this regulation would be considered a "State standard" with respect to the provision of special education under 34 CFR §300.753(b)(2).

Specifically, 34 CFR §300.753(b)(2) states that a State educational agency (SEA) ". . . may not include children with disabilities in its (child count) report who are not provided special education that meets State standards."

The purpose of §300.753(b)(2) is to require that children who are counted under Part B are receiving appropriate special education services that meet standards imposed by the State. State regulations that address solely the method by which State funds are allocated, and not the requirements that must be met in providing educational services, would not be covered by §300.753(b)(2). Thus, if the South Carolina regulation you cite is not intended to impose standards for educating children with disabilities (or for educating children generally), then it is not within the meaning of "State standards" under §300.753(b)(2).

We hope that you find this explanation helpful. Please feel free to contact this Office if we can be of further assistance.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs