



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

NOV 8 1999

Fredric B. Garner, M.D.
8988 Fern Park Drive
Burke, Virginia 22015

Dear Dr. Garner

This is in response to your letter dated August 4, 1999, written to OSERS Assistant Secretary Judy Heumann. In your inquiry, you describe a practice that may improperly base decisions about the provision of services to particular children identified as having certain disabilities primarily on the category of a child's identified disability rather than the child's identified educational needs. Your two related questions and the Department's responses follow.

Does the determination of a child as "eligible" for special education services qualify any such child for any and all necessary services as determined on an IEP?

or

Is a child who is found eligible for special education services limited to only those services which are related to his eligibility category?

As explained to you by telephone by representatives from OSEP, the Individuals with Disabilities Education Act Amendments of 1997 make clear that the entitlement under the Act is to a free appropriate public education, and not to a particular label. Therefore, decisions regarding the provision of services that are appropriate for an individual child must be based on the child's special education and related services needs, and not on the disability category in which the child is classified.

The statute and its implementing regulations also underscore that under Part B, a child must receive the services he or she needs to address that child's identified special educational needs. Under 34 CFR §300.300(a)(3)(ii), the services and placement needed by each child with a disability to receive a free appropriate public education (FAPE) must be based on the child's unique needs, and not on the child's disability.

In the evaluation process, a new requirement at 34 CFR §300.532(b) requires use of a variety of assessment tools and strategies to gather relevant functional and developmental information about the child, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program. In addition, a child's evaluation must be "sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified." 34 CFR §300.532(h).

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These provisions will help to ensure that the child's identified needs, not the child's disability category, affect determinations about the services to be provided to the child.

We hope that you find this explanation helpful. If we can be of further assistance, please contact JoLeta Reynolds or Rhonda Weiss at (202) 205-5507 or Claudia Brewster, Virginia's Part B State contact in the Monitoring and State Improvement Planning Division at (202) 205-5578.

Sincerely,

Patricia J Guard
Acting Director
Office of Special
Programs

cc: Mr. Douglas Cox
Virginia Department of Education