



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAR 13, 2003

David K. Steele
Part C Coordinator
Bureau of Maternal and Child Health
Department of Health and Environmental Control
Mills/Jarrett Complex, Box 101106
Columbia, South Carolina 29201

Dear Mr. Steele:

This is in response to your letter addressed to Patricia J. Guard, former Acting Director, Office of Special Education Programs. In your letter, you “request legal clarification regarding whether or not the provision of respite and other family support services are required early intervention services under Part C of IDEA [Individuals with Disabilities Education Act].” In addition, your letter requests “formal clarification as to whether states have discretion in determining what services are provided in addition to those listed in section 303.12(d), section 303.13, and the required ‘at no cost services’ (e.g., evaluation, service coordination, child find, etc.).”

Under Part C, appropriate early intervention services must be available to all eligible children and their families. Early intervention services means services that --

- (1) Are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child's development;
 - (2) Are selected in collaboration with the parents;
 - (3) Are provided --
 - (i) Under public supervision;
 - (ii) By qualified personnel, as defined in §303.21, including the types of personnel listed in paragraph (e) of this section;
 - (iii) In conformity with an individualized family service plan; and
 - (iv) At no cost, unless, subject to §303.520(b)(3), Federal or State law provides for a system of payments by families, including a schedule of sliding fees; and
 - (4) Meet the standards of the State, including the requirements of this part.
- §303.12(a)

The Part C regulations list 16 “types” of services included under “early intervention services”. See §303.12(a). The note following §303.12 indicates that the lists of services are not exhaustive. The note states “early intervention services may include such services

as the provision of respite and other family support services.” The term “respite” as used in that note is not intended to mean “reprieve” or “rest” but rather a child care-type service provided to enable parent(s) to participate or receive other early intervention services in order to meet the outcomes on a child’s IFSP.

In order for a parent to develop the capacity to assist his/her child in meeting his/her developmental needs, the parent may need respite or other type of care for the child while the parent participates in appropriate early intervention activities. Families may need in-home or other care arrangements for their child in order for the family to participate in early intervention services that include a defined family component, i.e., family training or counseling services, psychological services, or social work. A family may need to participate in sign language classes in order to assist the child in developing communication skills or meet with a psychologist to design appropriate behavioral management strategies to use when the child engages in inappropriate behaviors. Although the provision of respite or other care arrangements may be necessary for some families to participate in appropriate early intervention activities, respite is not intended to serve as child-care or “baby-sitting” assistance in ordinary circumstances.

Early intervention services needed by a particular child are determined through the IFSP process. The participants at the IFSP meeting, which include the parent(s), identify the early intervention services that meet the unique developmental needs of the child and the child’s family related to enhancing their child’s development. See §303.343. The need for such services must be based on the results of the evaluation and assessment of the child and the family-directed identification of the needs of each child’s family to appropriately assist in the development of the child. Therefore, States have the responsibility to ensure that the participants at the IFSP meeting identify the early intervention services that meet the unique needs of the child and the supports and services necessary to enhance the family’s capacity to meet the developmental needs of the child. It would be inconsistent with Part C for a State to prohibit the provision of any service that meets the definition of early intervention services (§303.12, see above) specified on an IFSP to meet the developmental needs of the child or the need of the family to enhance the child’s development.

We hope this response provides the necessary clarifications. Please feel free to contact Sarah Willis, policy consultant in the Monitoring and State Improvement Planning Division at 202-205-8658 if you need further assistance.

Sincerely,



for

Stephanie S. Lee
Director
Office of Special Education Programs