



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

Dec 15 1999

Ms. Sheryl Dicker  
Permanent Judicial Commission on  
Justice for Children  
140 Grand Street - Suite 404 .  
White Plains, NY 10601

Dear Ms. Dicker:

This is in response to your recent letter, postmarked October 19, 1999 in which you requested clarification of the definition of "parent" under Part C of the Individuals with Disabilities Education Act (see 34 CFR §303.19). I understand that your interest in this matter relates to children who are both eligible for early intervention services and are also in foster care in the State of New York.

You specifically asked about the difference in wording of the Part C definition of parent, as it concerns guardianship, between the definition published in the March 12, 1999 regulations and that of the previous regulations. You are correct that the March 1999 Part C definition of "parent" at 34 CFR §303.19(a)(2) does not contain the phrase "but not the State if the child is a ward of the State" following the word "guardian." This was an oversight. As you point out, the Part B regulations define "parent" as "a guardian but not the State if the child is a ward of the State," at 34 CFR §300.20(a)(2). There was never any intent for the definitions of "parent" in the Parts C and B regulations to differ in this regard. In fact, in the March 12, 1999, Federal Register publication of the regulations, Attachment 1 - Analysis of Comments and Changes, the Part C section addresses the definition of "parent" for both Parts B and C in stating:

The changes to the definition of parent under Part C are to clarify that the definition is an inclusive one and to conform Part C to Part B for consistency and continuity purposes. (64 Fed. Reg. 12653)

The same statutory definition of "parent," IDEA §602(19), applies to both Parts B and C. Thus, our interpretation that the term "guardian" in that definition does not include the State, because of the likelihood of a conflict of interest, applies equally to Part C.

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I understand that you previously discussed this matter with Dr. Bobbi Stettner-Eaton, of my staff, and that she provided you with similar information. I hope this clarifies the matter. If we can be of further assistance, please contact me.

Sincerely,

Patricia J. Guard  
Acting Director  
Office of Special. Education  
Programs

cc: Donna Noyes  
Part C Coordinator

Mr. Lawrence C. Gloeckler