



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

June 30, 2010

Heidi Atkins-Lieberman
Assistant Commissioner
Division of Special Education
Missouri Department of Elementary and Secondary Education
P.O. Box 480
Jefferson City, Missouri 65102-0480

Dear Ms. Atkins-Lieberman:

This is in response to your April 14, 2010 letter to me regarding the State maintenance of financial support for special education and related services, required under 34 CFR §300.163, and Missouri's potential decision to discontinue the provision of a free appropriate public education (FAPE) to children with disabilities ages three and four under section 619 of the Individuals with Disabilities Education Act (IDEA). You ask whether discontinuing the State's participation in the section 619 program will permit a corresponding decrease in the State's maintenance of financial support. You describe your State's current funding of special education and related services for three- and four-year-old children with disabilities, which is solely funded with State and Federal funds. You also briefly describe instituting, as an alternative means of providing special education and related services to children with disabilities aged three and four, a program in which school districts could voluntarily participate that would be funded with State and local funds.

In short, there is no provision in the IDEA that allows for a reduction of State financial support based on a change to the State's age range of children for whom the provision of FAPE is mandated. (See section 612(a)(18)). The requirement at section 612(a)(18) and 34 CFR §300.163(a) provides that a State not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year. This requirement is not dependent on a State's FAPE age range and is not affected by a State change in that range. Instead, it requires a comparison of the amount of State financial support for special education and related services for children with disabilities from one year to the next. Should your State cease to mandate services for three- and four-year old children with disabilities, but still provide State financial support for the special education and related services for these children through the school district-voluntary program that you describe, the amount of that State financial support would be included in calculating the totality of the State's financial support for special education and related services for children with disabilities, even though those services were not mandatory.

The Office of Special Education Programs encourages Missouri to very carefully consider discontinuing mandatory services to three- and four-year-old children with disabilities. The benefits of early childhood special education are well-documented. Preliminary data from the

Early Childhood Outcomes Center, based on an analysis of States' Annual Performance Reports, indicates that more than 75% of children with disabilities receiving services under section 619 of the IDEA increased their rate of growth in all three outcome areas (positive social-emotional skills (60%); acquisition and use of knowledge and skills (50%); and use of appropriate behaviors to meet their needs (75%)). We hope that Missouri will review all available options under State law to either continue participation in the section 619 program uninterrupted, or, if the State's participation in the section 619 program ends, to reinstate section 619 program participation at your earliest opportunity. Should Missouri decide to discontinue participation in the section 619 program, we hope that your office will do everything in its power to encourage school districts to continue to provide appropriate services to this population.

Based on section 607(c) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

If you have additional questions, please do not hesitate to contact Dr. Deborah Morrow at 202- 245-7456 or by email at Deborah.Morrow@ed.gov.

Sincerely,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive style with a large, looped initial "A".

Alexa Posny, Ph.D.