



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

September 4, 2007

Janice M. Kane, M.S.W.
Bureau Chief
Early Steps, Children's Medical Services
Department of Health
4052 Bald Cypress Way
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Tallahassee, Florida 32399

Dear Ms. Kane:

This is in response to your letter dated June 25, 2007, addressed to Patricia J. Guard, Acting Director, Office of Special Education Programs (OSEP). In your letter, you asked several questions regarding the provision of early intervention services. Under Part C of the IDEA, 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 (c) of this section;
 - (iii) In conformity with an individualized family service plan; and
 - (iv) At no cost, unless, subject to 34 CFR §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. 34 CFR §303.12(a).

Question: Is duplication of early intervention services specifically prohibited in the IDEA statute and regulations?

Response: The Individuals with Disabilities Education Act of 2004 and the current Part C regulations are silent regarding "duplication of early intervention services."

Question: When a family whose child is eligible for and receiving Part C early intervention services wishes to pursue additional services beyond those identified on the individualized family services plan (IFSP) with their own personal resources, is it allowable for the IFSP Team to reduce the level of services to the family based on what the family may have accessed outside the IFSP process?

Response: No. Under Part C, 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 (34 CFR §303.343). The need for such services must be based on the results of the evaluation and assessment of the child and family-directed identification of the needs of each child's family to appropriately assist in the development of the child.

The IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family (34 CFR §303.344(d)), and, to the extent appropriate, "other services" including "medical and other services that the child needs, but are not required under this part" along with the funding sources to be used in paying for the services (whether health or medical) or the steps that will be taken to secure the services through public or private sources (34 CFR §303.344(c)).

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 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 specified on an IFSP to meet the developmental needs of the child because a family wishes to provide additional services to their child outside of the Part C system.

Question: Is Florida policy addressing duplication of services consistent with IDEA statute and regulations (excerpt from the Early Intervention Program Plan and Operations Guide included in letter)?

Response: Because your letter included only an excerpt from the State's Early Intervention Plan and Operations Guide, it is recommended that you contact Sara Menlove, OSEP Part C State Contact for Florida, at (202) 245-7447, to do a complete review of Florida's Early Intervention Program Plan and Operations Guide.

Based on section 607(e) 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.

We hope this response provides the necessary clarifications. Please do not hesitate to contact my office if you have any further questions.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs