



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAY 17 2000

Susan Cano
Manager for Special Education
State of Vermont Dept. of Education
120 State Street
Montpelier, VT 05620-2501

Dear Ms. Cano:

This is in response to your letters of January 18 and February 15, 2000 written to Dr. JoLeta Reynolds at the U.S. Department (Department) of Education's Office of Special Education Programs (OSEP). Your letter seeks clarification concerning the use of funds under Part B of the Individuals with Disabilities Education Act (Part B of IDEA) to provide services for infants and toddlers from birth through age two. Your specific questions and OSEP's response appear below.

Your Question:

"Whether Part B funds may be used to pay for the provision of education, health, mental health and social services, including transition services and related services, for children who are younger than three years old, and who qualify under Part C? Can 619 Preschool funds be used for the same purposes?"

Response

Under the Assistance to States for the Education of Children with Disabilities program, authorized by section 611 of Part B of IDEA, State educational agencies (SEAS) and local educational agencies (LEAs) must ensure that a free appropriate public education (FAPE) is made available to all eligible children with disabilities within the State's mandated age ranges. 34 CFR §§300.121 and 300.600. In Vermont, under current State law the Vermont Department of Education must ensure that FAPE is made available to children with disabilities aged three through twenty-one. Although children below the age of three cannot be included in the annual Part B child count, States are permitted to use a portion of their Part B section 611 funds to serve these children.

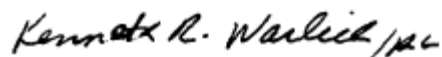
If all children with disabilities from the ages three through twenty-one are receiving FAPE, Vermont may use section 611 funds to provide FAPE to children with disabilities who are younger than three years old. If Part B funds are used to provide services to a child with a disability under age three, the child must be provided FAPE in accordance with the requirements of Part B of IDEA. Those services must be provided without fees and without cost to the parent. In addition, since Vermont participates in the Early Intervention Program for Infants and Toddlers with Disabilities, authorized by sections 631-645 of Part C of IDEA, Vermont must also provide Part C early intervention services to all Part C- eligible children and families, except two-year-olds served with section 619 funds, as described below.

If the State uses section 611 funds to provide services to infants and toddlers, the State must meet the requirements of both Part B and Part C for those children. This means that infants and toddlers with disabilities age birth through two and their families who are provided FAPE with section 611 funds must also receive any additional early intervention services required by Part C. Early intervention services required under Part C for infants and toddlers with disabilities and their families may differ from those required under Part B. See 34 CFR §303.12 and the service coordination requirements at §303.23. It should be noted that related services under Part B include parent counseling and training and social work services. See 34 CFR §300.24(b)(7) and (13). In addition, the list of related services is not exhaustive and may include services not specified in 34 CFR §300.24. If Vermont has established a system of payments for early intervention services, it would be possible for the State to impose fees only for those early intervention services that are not provided as part of FAPE nor required to be provided at no cost to parents under Part C. See 34 CFR §303.521.

The purpose of the Preschool grants program, authorized by section 619 of Part B of IDEA, is to provide financial assistance to States for providing special education and related services to children with disabilities aged three through five years, and at a State's discretion, to two-year old children with disabilities who will turn three during the school year. Section 619 funds therefore cannot be used for children with disabilities younger than two and can only be used to provide special education and related services to two-year-old children who will turn three during the school year if it is consistent with State policy. If the State uses section 619 funds to provide services to two-year-olds with disabilities who will turn three during the school year, the State must meet the requirements of Part B for those children, and Part C does not apply to these children. 34 CFR §301.6. However, if the State provides services to a two-year-old child with disabilities who will turn three during the school year with funds other than section 619 funds, then the child remains entitled to services under Part C until the third birthday.

We hope that you find this explanation helpful. If you would like further assistance, please contact the Office of Special Education Programs and speak with Ms. Camellia Wang at (202) 401-1891 or Dr. JoLeta Reynolds at (202) 205-5507, or you may reach Ms. Jill Harris, the Vermont State contact in the Monitoring and State Improvement Planning Division, at (202) 205-9583.

Sincerely,

A handwritten signature in black ink that reads "Kenneth R. Warlick" followed by a small mark that appears to be "jr" or "jr.".

Kenneth R. Warlick
Director
Office of Special Education
Programs

cc: Mr. Dennis Kane, External Manager
Division of Special Education
Vermont Department of Education