



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

APR 30 1999

Ms. Julie Curry, Part C Technical Assistant
Iowa Department of Education
Bureau of Children, Family and Community Services
Grimes State Office Building
Des Moines, IA 50319

Dear Ms. Curry:

This is in response to your letter dated November 25, 1998, regarding questions related to a sentence in the Federal Register, July 30, 1993, page 40982, Section 303.4 (Appendix-Analysis of Comments and Responses), middle column. Your questions pertain to the statement in the second paragraph of the Discussion: "Finally, if a child below age three receives services with Part B funds under section 611, the requirements of both part 300 and 303 must be met."

You asked the following:

1. "Is this sentence still true with the reauthorization of LD.E.A. and new regulations?"

Response

This statement is still valid. The '97 Amendments of IDEA did not change the fact that 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 funds to serve children below the age of three.

2. "If true, does it mean our state has to have all the 300 requirements (IEP components) in the IFSP, if we are using Part B 611 funds to provide special education services (special instruction and related support service- PT, OT, etc.) to Part C eligible infants and toddlers?"

Response

Yes. For all children with disabilities under age three who receive a free appropriate public education (FAPE) with Part B (Section 611) funds, requirements for both Part B and Part C must be met. See attached letter to Gillung (3/15/94).

If the child is provided services using Part B (Section 611) funds, the Individualized Education Program (IEP) (34 CFR §300.347 (March 12,1999)) and Individualized Family Service Plan (IFSP) (§303.344) content requirements can be incorporated in a single document. Also, see new §300.342(c) regarding the use of an IFSP in place of an IEP, for two-year-old children who will turn three during the school year.

3. "If true, does it mean the federal requirements of 300 and 303 need to be met if state and local funds designated for special education services are used to serve Part C eligible infants and toddlers?"

Response

If only State and local funds, and no Part B funds are used to serve infants and toddlers with disabilities, then the State would not need to comply with the Part B requirements, as a matter of Federal law. There may be State law requirements, however, that would still apply to infants and toddlers in your State. In addition, the State would be required to comply with all of Part C, even if no IDEA funds are used for particular infants and toddlers, because upon applying for and accepting Part C funds, the State accepts the obligation to serve all eligible infants and toddlers in the State, and to comply with the Part C requirements for all such infants and toddlers (IDEA sec. 634, 635).

Note also that if Iowa used State and local funds, but no Part B funds, to serve infants and toddlers, the State could not count those state and local funds towards meeting its Part B "maintenance of effort" obligations under 34 CFR §300.154 (March 12, 1999).

We hope this response to your questions provides the necessary clarification. If you need further assistance, please contact Ms. Terese Lilly, the OSEP Part C contact, at (202) 205-0151.

Sincerely,

Thomas Hehir
Director
Office of Special Education Programs

Enclosure.

cc: Lynda Pletcher
Part C Coordinator