



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JAN - 7 1998

Mr. Carlos Flores
Manager
Prevention and Children Services Branch
Department of Developmental Services
1600 9th Street
Sacramento, California 95314

Dear Mr. Flores:

This is in response to the letter dated February 21, 1997, from Ms. Beth Gould to the Office of Special Education Programs regarding the relationship between the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and Part H of the Individuals with Disabilities Education Act (IDEA). The letter asks: "can early intervention services in California be denied to otherwise eligible applicants solely on the basis of the person's lack of citizenship [under the PRWORA]?" Because Part H services are not covered by the PRWORA, California must administer the Part H program without regard to a child's citizenship status.

We have enclosed a letter dated November 19, 1997, that provides the Department's analysis of why the Department's preschool, elementary and secondary programs are generally not covered by the PRWORA. For the same reasons outlined in that letter, services under the Part H program do not constitute "federal public benefits" as defined in section 401 (c)(1)(A) of the PRWORA and thus are not covered by that law.

As you are aware, we have previously advised the State of California, by letter to Ms. Gould, dated February 5, 1997, that Part H requires that "appropriate early intervention services . . . be available to all children in the State who are eligible [i.e., that meet the definition of infant or toddler with a disability] . . . and their families." 34 C.F.R. §303.154(a)(3) (emphasis added). This requirement remains unaffected by the PRWORA. Therefore, early intervention services provided under Part H cannot be denied to otherwise eligible children and their families on the basis of lack of citizenship or immigration status.

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I hope this information answers your question. Please do not hesitate to contact us if you need more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Hehir".

Thomas Hehir
Director
Office of Special Education
Programs

Enclosure