



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAR 21 2000

Honorable Lynn Woolsey
439 Cannon Building
Washington, DC 20515-0506

Dear Congressman Woolsey:

Thank you for your letter dated August 6, 1999, to Richard W. Riley, Secretary, United States Department of Education. Your letter has been referred to the Office of Special Education Programs for my response. In your letter, you referenced your constituent's, Ms. Nancy Sweet, concern about the State of California's policy regarding the "natural environments" provision of Part C of the Individuals with Disabilities Education Act (Part C). You stated that Ms. Sweet's understanding of the definition of natural environments is that it is being interpreted in California to mean only settings where children without disabilities are present and participate. You also stated Ms. Sweet is concerned that programs such as hers at the Children's Hospital, would be excluded as a provider of early intervention services because it did not meet the definition of natural environment.

Part C requires that, to the maximum extent appropriate to the needs of the child, early intervention services are provided in natural environments, including the home and community settings in which children without disabilities participate. 34 CFR §303.12 (b). However, early intervention services provided to infants and toddlers with disabilities and their families are individualized and designed to meet the unique needs of children, taking into consideration the strengths and challenges of the child and the child's family. After evaluation of the child and input from the family as to their resources, priorities, and concerns, a team of qualified professionals, including the parents, meets to determine the types of early intervention services that will be provided, how often the services will be provided, by whom, where services are to be provided, and who will pay for these services. An individualized family service plan (IFSP), the resulting document from those meetings, is developed and implemented. In all instances, supports and services are to be determined based on the individual needs of the child. 34 CFR §303.322 and 303.344.

The requirement to provide early intervention services in natural environments is not a new requirement. The Department's 1989 Part C regulations initially implementing the early intervention program required that, to the extent appropriate for a child, early intervention services take place in settings in which children without disabilities participate. In the 1991 Amendments to IDEA, Congress added the requirement of "natural environments" as part of the definition of early intervention services, as well as making it a required part of the IFSP.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the

The 1997 Amendments of the IDEA further strengthened requirements to provide services in natural environments by including an additional requirement of a justification on the IFSP in the event that a service could not be satisfactorily achieved in natural environments.

In general, providing services in a setting limited exclusively to infants and toddlers with disabilities would not constitute a natural environment. However, if a determination is made by the IFSP team that, based on a review of all relevant information regarding the unique needs of the child, the child cannot satisfactorily achieve the identified early intervention outcomes in natural environments, then services could be provided in another environment. In such cases, a justification must be included on the IFSP.

My staff has worked closely with the Department of Developmental Services (DDS) Part C staff responsible for implementation of early intervention in California to ensure that DDS is correctly interpreting the Federal requirements governing Part C. It is not the Department's practice to dictate which providers meet the requirements of qualified personnel, consistent with Part C, in order to provide early intervention services. California must continue to ensure that early intervention services are provided consistent with all the requirements of Part C, regardless of who is providing the early intervention services. However, it is not true that Part C makes "ineligible" or "illegal" a center-based program serving only children with disabilities. As stated above, if justified on the IFSP based on the needs of the individual child for a particular service, a service may be provided in such a setting.

In addition, I have enclosed the California Part C IDEA monitoring report, issued on July 14, 1999, for your information which I hope you will find helpful. Thank you for bringing your concerns to our attention. We remain available to provide technical assistance in support of California's early intervention efforts. Please feel free to contact Ms. Jacquelyn Twining-Martin, the early intervention contact for California on my staff at (202) 205-8258, if you have further questions or concerns.

Sincerely,

Kenneth R. Warlick
Director
Office of Special Education
Programs

Enclosure