

Dated September 25, 2000

Dear x:

Your September 19, 1999 letter to Secretary Richard Riley has been referred to the Office of Special Education and Rehabilitative Services (OSERS) for response. In your letter, you expressed a number of concerns about changes to the early intervention system in Maine and the importance of early intervention. I write to address those concerns as they relate to Federal law governing early intervention services provided to children aged birth through 2 under Part C of the Individuals with Disabilities Education Act (Part C).

You expressed a concern about Maine's eligibility criteria for Part C eligible children. You were correct when you stated that the issues you raised in your letter are more appropriately addressed by the State of Maine and can be addressed by Maine State Senator Jill Goldthwait and Governor Angus King. Under Part C, States have significant latitude in defining eligibility as long as a State receiving Part C funds meets the minimum Federal eligibility requirements, including the criteria at 20 U.S.C. §1432(5)(A) and 34 CFR §§303.16, 34 CFR§303.300. A State may, but is not required to, exceed the minimum Federal requirements as long as the State requirements are consistent with the Federal requirements.

You expressed concern that Federal regulations establish eligibility for services primarily through cognitive screening. Part C requires the performance of a timely, comprehensive, multidisciplinary evaluation of each child, birth through age two, who is referred for evaluation. 34 CFR §303.322. This evaluation of the child's level of functioning, however, must be completed in all of the following developmental areas: cognitive development; physical development including vision and hearing; communication development; social or emotional development and adaptive development. 34 CFR §303.322. Based on information in these evaluations, the Individualized Family Service Plan team, which includes the parent, provides input to identify and determine those early intervention services that will best meet the needs of the child and the family. 34 CFR §§303.342 and 303.343.

Finally, you indicated concerns about the administration and funding of certain Part C services including developmental assessments and the provision of Part C services through the public school system. States are required, as a condition of receiving Part C funds, to provide information demonstrating that certain Part C requirements are met, including the provision of evaluations and assessments. 34 CFR §§303.166 and 303.322.

However, States have discretion in designating the appropriate lead agency that will implement Part C as long as Federal requirements are met. As part of our continuous improvement monitoring process, the Office of Special Education Programs within OSERS reviews applications from States and conducts on-site monitoring to assure compliance with Part C requirements.

It is through the implementation of comprehensive evaluations and individualized services that we can make a positive difference in the lives of young children and their families. I hope this information is helpful. If our Office can be of further assistance, please feel free to contact Angela Herring, of my staff, at (202) 260-8640.

Sincerely,

Signed Kenneth R. Warlick/pg

Kenneth R. Warlick
Director
Office of Special Education Programs