

Dated August 6, 2001

Honorable Richard Shelby
110 Hart Building
Washington, DC 20510-0103

Dear Senator Shelby:

This is in response to your letter dated May 2, 2001, to Rod Paige, Secretary, U.S. Department of Education. Your letter was referred to the Office of Special Education Programs (OSEP) for response because OSEP has responsibility for the administration of Part C under the Individuals with Disabilities Education Act (IDEA). You requested that the U.S. Department of Education reconsider the Part C regulations that require “early intervention services for infants and toddlers with disabilities to be provided in a child’s home or a day care center where there are other children without disabilities.” You also expressed concern that “parents should have the freedom to have early intervention services at home or at centers specifically designed to meet the needs of disabled children” and that the Part C regulations place a heavy burden on rural early intervention providers that must travel long distances to serve children and families.

The requirement to provide early intervention services in natural environments is not a new requirement. 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 an individualized family service plan (IFSP). The statute governing the Early Intervention Program (Part C) requires each State to have policies and procedures to ensure that: (1) to the maximum extent appropriate, early intervention services are provided in natural environments including the home, and community settings in which children without disabilities participate; and (2) the provision of early intervention services for an infant or toddler occurs in a setting other than a natural environment only if early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment. (IDEA sections 632(4)(G) and 635(a)(16)). In addition, an IFSP must contain a justification of the extent, if any, to which the services will not be provided in a natural environment. (IDEA section 636(d)(5)). The regulations implementing these statutory requirements are found at 34 CFR §§303.12(b), 303.18, 303.167(c) and 303.344(d)(1)(ii). “Natural environments” means settings that are natural or normal for the child’s age peers who have no disabilities. (34 CFR §303.18).

Early intervention services provided to infants and toddlers with disabilities and their families are designed to meet the unique needs of the child, taking into consideration the strengths and challenges of the child and the child’s family. After careful evaluation of the child and significant input from the family as to its typical routines and dreams for the future of the child, a team that includes qualified professionals and the parents, meets to determine the types of early intervention services needed, how often the services will be provided, by whom, where services

are to be provided, and who will pay for these services. The discussion of, and decision about, the location of any service takes place in the context of an IFSP meeting. In all instances, supports and services are to be determined based on the individual needs of the child. Nothing in Part C of IDEA or its implementing regulations at 34 CFR Part 303 requires that early intervention services always be provided in a child's home or in a day care center where there are other children without disabilities. 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 child's IFSP.

Many center-based programs that formerly served only children with disabilities have now integrated children without disabilities, creating a childcare or preschool program constituting a natural environment. If services were provided to an eligible child in such an integrated environment, the child's IFSP would not require a justification for services in that integrated setting.

We share your concern that providing services in rural communities can be particularly challenging. Many states with significant rural areas have developed strategies to address the needs of children and families residing in rural communities, including the use of teleconferencing, videotaping, and other methods. This Department supports many early childhood research and demonstration projects to assist States in the implementation of Part C. One such project is charged with providing technical assistance to State and local agencies. Information about promising practices from rural communities is available through the technical assistance project. Its web site is <http://www.nectas.unc.edu>.

Thank you for bringing your concerns to our attention. Please feel free to contact Ms. Sheryl Parkhurst, the early intervention contact for Alabama on my staff at (202) 205-9375, if you have further questions or concerns.

Sincerely,

/signed Patricia J. Guard/

Patricia J. Guard
Acting Director
Office of Special Education Programs