



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

November 13, 2009

Mr. Rick Ingraham
Part C Coordinator, Early Start
1600 9th Street, Room MS 3-22
Sacramento, California 95814

Dear Mr. Ingraham:

This is in response to your electronic mail (e-mail) inquiry of October 6, 2009 in which you enclosed a letter from Terry Delgadillo to Laura Bliss and requested an opinion on its contents from the Office of Special Education Programs. You inquired whether a parent signature is required for any change to an early intervention service (EIS) identified on the individualized family service plan (IFSP) under Part C of the Individuals with Disabilities Education Act (IDEA). The question was raised by the California Department of Developmental Services (Ms. Delgadillo), the State Part C lead agency, on behalf of an EIS provider (Ms. Bliss) who questioned the requirement. Specifically, the EIS provider indicated that the only circumstances that should require a parent signature are before the initiation of an early intervention service and when there is a decrease or discontinuation of EIS.

Under Part C of the IDEA, parents have the right to determine “whether they, their infant or toddler, or other family members will accept or decline *any* early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.” 20 U.S.C. 1439(a)(3); 34 CFR §303.405 (emphasis added). Parental consent (which confirms whether the parent accepts or declines the service) must be obtained before the early intervention service can be initiated. 20 U.S.C. 1436(e); 34 CFR §§303.342(e) and 303.404(a). Consent must be in writing and the lead agency must provide those early intervention services for which a parent has provided consent. 34 CFR §§303.342(e) and 303.401.

The IFSP team (which includes the parent) identifies the early intervention services needed by the child and family on the IFSP at an annual, or at a periodic, IFSP review. 20 U.S.C. 1436(b); 34 CFR §§303.342 and 303.343. A periodic review must be conducted at least every six months or sooner if conditions warrant. 34 CFR §303.342(b). The purpose of this periodic review is to determine “(i) [t]he degree to which progress toward achieving the outcomes is being made; and (ii) [w]hether modification or revision of the outcomes or services is necessary.” 34 CFR §303.342(b)(1). Unlike the annual IFSP meeting, which must occur in a face-to-face meeting, the periodic review may be carried out by a meeting or another means, such as a conference call, that is acceptable to the parents and other participants. 34 CFR §303.342(b)(2).

The IFSP team determines the specific early intervention services on the IFSP, including the frequency (how many times per week or month), intensity (length of each session and individual or group), duration (for how long needed – e.g., six months), method (direct or other), location

(setting), and payment arrangements. 20 U.S.C. 1436(d) and 34 CFR §303.344(d) and (f)(2). When the early intervention services are revised on the IFSP, parent consent must be obtained before the initiation of provision of those revised services. 34 CFR §303.404(a). Thus, when the IFSP team modifies the early intervention services on the IFSP, including changes in frequency, intensity, duration, method, location, and payment arrangements, written parental consent must be obtained for the change.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We trust this information is helpful. If you have further questions, please do not hesitate to contact Rhonda Spence at 202-245-7382 or by email at Rhonda.Spence@ed.gov.

Sincerely,

A handwritten signature in black ink that reads "Patricia J. Guard". The signature is written in a cursive style with a large initial "P".

Patricia J. Guard
Acting Director
Office of Special Education Programs