



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 26 2003

Dr. Carol Ann Baglin
Assistant State Superintendent
Division of Special Education/
Early Intervention Services
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Dr. Baglin:

We are in receipt of your letter requesting clarification from the Office of Special Education Programs (OSEP) regarding the parent's role in the team process as it pertains to 34 CFR §300.543. Your letter to OSEP was prompted by the Baltimore City Public Schools System's (BCPSS) response to your office's interpretation made in a finding to a complaint investigation "that a parent is a full member of the IEP team who maintains all of the rights of school personnel, including the opportunity to agree or disagree with the decision as to whether the student has a specific learning disability and to certify in writing that the written report reflects his or her conclusion." You are seeking OSEP's clarification of the parent's role in the IEP team process as it pertains to 34 CFR §300.543.

A key emphasis in the 1997 amendments to the Individuals with Disabilities Education Act (IDEA) and the implementing regulations was the strengthening of the parents' role in their child's education and an expansion of opportunities for parents and key public agency staff to work in new partnerships at the State and local levels. (See Appendix A to 34 CFR part 300, Section II). Accordingly, the IDEA and the implementing regulations require that parents have an opportunity to participate in meetings and be part of the groups that make decisions about identification, eligibility, evaluation, educational placement and the provision of a free appropriate public education. (See 34 CFR §§300.501, 300.533(a)(1), 300.534(a)(1)). Further, parents' concerns and the information they provide about their children must be considered in developing and reviewing the IEPs. (See 34 CFR §§300.343(c)(iii) and 300.346(a)(1)(i)).

Sections 300.540-300.543 of the Part B regulations set forth the Additional Procedures for Evaluating Children with Specific Learning Disabilities. Section 300.540 states that "the determination of whether a child suspected of having a specific learning disability (SLD) is a child with a disability as defined in 34 CFR §300.7, must be made by the child's *parents and a team of qualified professionals* which must include – (a)(1) the child's regular teacher; or (2) if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or (3) for a child of less

than school age, an individual qualified by the State Education Agency (SEA) to teach a child of his or her age; and (b) at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.” (Emphasis added). Section 300.540 clearly identifies those persons who must be included in the *team of qualified professionals*. The regulation makes clear that it is the parent and the team of qualified professionals who determine whether a child is a child with a SLD. It is important to note that the “team” described in §300.540 is not the same as the IEP team defined in §300.344.

The regulations at 34 CFR §300.543(b) require that each *team member* shall certify in writing whether the report documenting the team’s determination of eligibility reflects his or her conclusion. If it does not reflect his or her conclusion, the *team member* must submit a separate statement presenting his or her conclusions. Team member as used in this citation speaks specifically to the team of qualified professionals involved in the additional evaluation procedures that must be used to conduct evaluations and to submit written reports where it is suspected that a child has a SLD. Therefore, the requirements at 34 CFR §300.543(b) do not require or place an “affirmative duty” on the child’s parent to submit a separate statement presenting his or her conclusions. However, it would not be inconsistent with the IDEA for a State to require that the child’s parent be afforded the opportunity to provide (but not be required to provide) such a statement.

Although the parent is not listed as a member of the team of qualified professionals and is not required to submit a written statement reflecting his or her conclusion, the regulations at 34 CFR §§300.540 and 300.534 are very clear in requiring the determination of whether a child suspected of having a SLD is a child with a disability must be made by the parents and the team of qualified professionals.

We hope you find this explanation helpful. If we can be of further assistance, please do not hesitate to contact Dale King at (202) 260-1156 or Dr. JoLeta Reynolds of the Office of Special Education Programs at (202) 205-5507 (press 3).

Sincerely,

A handwritten signature in black ink that reads "Stephanie S. Lee". The signature is written in a cursive style with a large initial 'S'.

Stephanie S. Lee
Director
Office of Special Education Programs