



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

SEP 24 2007

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This letter is in response to your recent inquiry to the U.S. Department of Education (Department) in which you ask, "If a parent of an autistic 2 year old child can produce scientific research that demonstrates that ABA-DT therapy improves the autistic child's development and the local Part C provider does not provide such therapy can the parent insist on an out of network provider that does provide that therapy?" Your inquiry was forwarded to the Office of Special Education Programs (OSEP), Office of Special Education and Rehabilitative Services, within the Department, for reply.

Part C requires that an individualized family service plan (IFSP) be developed for each infant or toddler who is eligible for Part C services and that the IFSP include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified on the IFSP (20 U.S.C. 1436(d); 34 CFR §303.344(d)). The term "early intervention services" is defined, in part, as "developmental services that ... are designed to meet the developmental needs of an infant or a toddler with a disability, as identified by the IFSP team, in one or more of ... [five] developmental areas" (*see*, 20 U.S.C. 1432(4)(C)).

The IFSP must include "a statement of early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services (20 U.S.C. 1436(d)(4)). The term "method" is defined in the current Part C regulations as "how a service is provided" (34 CFR §303.344(d)). There are many different "methods" of providing services, such as one-on-one vs. group therapy, or consultative vs. direct services. The determination of whether a particular "method" is needed for a child is an individualized determination made by the IFSP team, which includes the parent and could include a specific "methodology" such as applied behavioral analysis (ABA) if it is the method determined to be needed.

For many children, the IFSP may not need to address a specific approach, because the general description of the early intervention service, e.g., "speech-language and communication services," may suffice when identified on the IFSP with the specific measurable results or outcomes. The IFSP must include a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary (*see*, 20 U.S.C. 1436(d)(3)).

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In some cases, in order to meet the child's unique needs, the IFSP team may consider a particular method or instructional approach to be integral to the design of an "individualized" program of early intervention services for an infant or toddler with a disability. In such cases, it would be appropriate for the IFSP team to list that specific method on the IFSP. Any IFSP team member, including the parent, may make recommendations regarding a specific method for the provision of an early intervention service. The final determination of the early intervention service identified on the IFSP is a decision of the IFSP team and not any individual member.

After an IFSP has been developed, the State is required to provide all early intervention services identified on the child's IFSP and consented to by the parent and to ensure that those services are implemented according to the IFSP. Thus, if the IFSP includes a specific method, the State would need to ensure that services are provided in accordance with that specific method. It is the responsibility of the lead agency, not the IFSP team, to determine the appropriate provider of a particular early intervention service (including any method).

If a parent disagrees with the IFSP team's decision, the following options are available for resolving these disputes: (1) mediation (34 CFR §303.419, as modified by 20 U.S.C. 1415 and 1439(a)(8)); (2) due process procedures (34 CFR §§303.420-303.425); or (3) State complaint procedures (34 CFR §§303.510-303.512). For information regarding how these procedures are implemented in the State of Florida, you may wish to contact Florida's Part C Coordinator at:

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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 hope that this information provides helpful clarification on these issues. If OSEP can be of any further assistance regarding this matter please feel free to contact Ms. Sara Menlove, OSEP's Part C State Contact for Florida, at (202) 245-7447.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: Janice Kane