



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

November 22, 2019

Michael W. Breeskin
The Center for Special Education Law
950 South Cherry Street, Suite 1100
Denver, Colorado 80246

Dear Mr. Breeskin:

This letter addresses your correspondence to me regarding parental involvement in educational placement decisions for children with disabilities. Specifically, you ask that the U.S. Department of Education (Department), Office of Special Education and Rehabilitative Services, confirm that under 34 C.F.R. § 300.116 of the regulations implementing Part B of the Individuals with Disabilities Education Act (IDEA), parents are required members of the group of persons that determines how far from home the child with a disability will be educated. In a subsequent conversation with a member of my staff, your colleague Mr. Stephen F. Fusco stated his understanding that the determination of which specific facility will serve a child with a disability is made by a “location team” and that the location team is separate from the child’s placement team and does not include the parents. We have addressed your question below.

We note that section 607(d) of the IDEA prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the Department of the requirements of IDEA in the context of the specific facts presented and does not establish a policy or rule that would apply in all circumstances.

In determining the educational placement of a child with a disability, including a preschool child with a disability, the IDEA regulations require that each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and is made in conformity with the least restrictive environment (LRE) provisions, including 34 C.F.R. §§ 300.114 through 300.118. See 34 C.F.R. § 300.116(a). Additionally, the child’s placement must be determined at least annually; be based on the child’s individualized education program (IEP); and be as close as possible to the child’s home. 34 C.F.R. § 300.116(b). Further, the public agency must ensure that unless the child’s IEP requires some other arrangement, the child is educated in the school that he or she would attend if the child did not have a disability. 34 C.F.R. §300.116(c). Also, in selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services he or she needs. 34 C.F.R. § 300.116(d).

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The Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Because the placement team, which includes the child's parents, must consider the proximity of the placement option(s) to the child's home in determining the school or facility in which the child's IEP can be implemented, the parents must be included in that discussion. If a public agency has identified two or more equally appropriate locations that meet the child's special education and related services needs, school administrators should have the flexibility to assign the child to a particular school or classroom, provided that determination is consistent with the decision of the group determining placement. See [Assistance to States for the Education of Children with Disabilities and Preschool Grants for the Early Intervention Program for Infants and Toddlers Children with Disabilities](#), Final Rule, Analysis of Comments and Changes, 71 FR 46540, 46588 (August 14, 2006).

If you have any further questions, please do not hesitate to contact Lisa Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Laurie VanderPloeg
Director
Office of Special Education Programs

Cc: Stephen F. Fusco