



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

DEC 19 2011

Denise Koscielniak
State Director of Special Education
New Mexico Public Education Department
300 Don Gaspar
Santa Fe, New Mexico 87501-2786

Dear Ms. Koscielniak:

This is in response to your March 8, 2011 letter to me, requesting that the Office of Special Education Programs clarify criteria that school districts can use in determining that children with disabilities should no longer receive speech-language pathology services. Your specific questions are as follows:

“Is it appropriate under the IDEA [Individuals with Disabilities Education Act] for an LEA [local educational agency] to unilaterally dismiss the child from SLP [speech-language pathology] services only because he/she has reached a plateau or is no longer making progress on the IEP [individualized education program] goals and/or objectives if there is still a documented need for the service? Is it appropriate for LEAs to universally apply guidelines from ASHA [the American Speech Hearing Association] when making IEP decisions and not considering the unique needs of the student?”

Initially, we want to point out that according to ASHA's website, www.asha.org, “ASHA does not recommend specific criteria for eligibility or dismissal of services for educational settings. Federal, State and/or local guidelines determine criteria.” Below, we summarize the applicable requirements in Part B of the IDEA (Part B) that are relevant to your inquiry.

Part B and its implementing regulations do not specify criteria for discontinuing a particular service or services included in the IEP of a child with a disability; rather, these determinations must be made on an individual basis for each child with a disability through the IEP process, in accordance with 34 CFR §§300.320 through 300.324. The IEP Team, which includes the child's parents and school officials, determines the program of instruction and services necessary to provide a free appropriate public education (FAPE) to the child, including, among other elements, the special education and related services that the child needs in order to receive FAPE. Likewise, a decision to dismiss a child from a particular service or services must be made by the eligible child's IEP Team and may not be the decision of a single service provider; nor can that decision be based on a single standard and applied to all children without regard to their individual needs. Thus, consistent with the individually-oriented focus of Part B, a school district could not categorically determine that a child should no longer receive speech-language pathology services, or any other service, based solely on guidelines applied to all children without regard to their individual needs. Moreover, if an IEP Team determines that a child needs

to continue to receive speech-language pathology services, that IEP Team must continue to include that service in the child's IEP, despite the ASHA guidelines. 34 CFR §§300.305(e)(1).

Additionally, if the child is dismissed from services and the parent disagrees with this decision, parents have the option of requesting another IEP Team meeting to discuss the decision and also to exercise their rights under the dispute resolution procedures of the IDEA, including mediation (34 CFR §300.506), filing a State complaint (34 CFR §§300.151-300.153) or filing a due process complaint (34 CFR §§300.507-300.518).

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.

If you have additional questions, please do not hesitate to contact Melissa Turner, at 202-245-6415 or by email at melissa.turner@ed.gov.

Sincerely,

A handwritten signature in cursive script that reads "Melody Musgrove".

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs