

Via email: osse.publiccomment@dc.gov

April 16, 2013

Ms. Desirée Brown
Special Assistant
Community and Parent Relations
Office of the State Superintendent of Education
810 First Street, NE, 9th Floor
Washington, DC 20002

Re: Comments on Proposed Policies for Implementing Part C of the Individuals with Disabilities Education Act

Dear Ms. Brown:

Thank you for the opportunity to comment on the proposed policies for implanting Part C of the Individuals with Disabilities Education Act (IDEA). I am submitting these comments on behalf of Children's Law Center (CLC),ⁱ which represents more than 2,000 low-income children and families in the District of Columbia every year. Many of the children we work with are eligible for early intervention services. Our comments are based on our experience representing these children and their families.

Overall, we find the proposed policy manual a useful tool for families to better understand the requirements of Part C. The discussion of the provision of services in the natural environment is especially helpful. However, we recommend revisions to three aspects of the policy.

Child Eligibility – Diagnosed Condition

The state definition of “diagnosed physical or mental condition that has a high probability of resulting in a developmental delay” on pages 12-13 is overly restrictive. The definition should not be limited to just prematurity and conditions known to be associated with mental retardation or developmental disabilities. “Mental retardation” and “developmental disabilities” are both associated with lifelong disability, while developmental *delays* can be resolved and may be temporary in nature. The DC and federal regulations both provide a broader array of examples of conditions that may qualify an infant or toddler for Part C services and both make clear that the examples they provide are not exhaustive.ⁱⁱ DC EIP’s list of established conditions in its existing policy guidance is also much more comprehensive than the list provided in the proposed policy manual.ⁱⁱⁱ The policy manual should be revised to incorporate the list of conditions currently used by DC EIP and to clearly state that the list is illustrative rather than exhaustive.

Child Eligibility – Informed Clinical Opinion

The policy also places overly restrictive limitations on the use of informed clinical opinion as an independent basis to establish eligibility for Part C services on pages 15-16. It is not reasonable to limit the use of informed clinical opinion to situations in which either valid standardized assessments

cannot be completed or two professionals from different disciplines both substantiate that the child has a developmental delay. For some children, valid standardized assessments may not capture their delays. And for some children their area of delay may fall squarely within the expertise of just one of the professionals on their evaluation team. As described by the National Early Childhood Technical Assistance Center, the goal of the “informed clinical opinion” provision of Part C is to provide for a dynamic approach to evaluation.^{iv} If OSSE’s goal is to provide evaluation teams with more guidance about the appropriate use of informed clinical opinion, a better approach would be one modeled on New Hampshire’s policy guidance (see attached).

As well as being overly restrictive, the section on informed clinical opinion in the proposed policy manual is also confusing. It is not clear whether criteria (a) and (b) both must be met before informed clinical opinion may be used as an independent basis for eligibility or whether only one of the criteria must be met. Also, criterion (b) only references 50% delays. It should be revised to include 25% delays in two or more areas to align with the recent changes to DC’s Part C regulations.^v

IFSP Extension

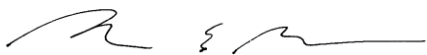
The policy does not discuss the option to extend early intervention services until the beginning of the school year following the child’s fourth birthday.^{vi} While this option will not go into effect until July 1, 2014, it would be helpful to begin educating parents about it now. The policy manual should explain that starting in summer 2014 parents will have the option of extending their child’s Individualized Family Service Plan (IFSP) rather than switching to Part B services.

Conclusion

Thank you for the opportunity to comment on these proposed policies.

If you have any questions, please do not hesitate to contact me at (202) 467-4900, ext. 565 or sgreer@childrenslawncenter.org.

Respectfully,



Sharra E. Greer
Policy Director

Cc: Amy Maisterra, Assistant Superintendent of Special Education

ⁱ Children’s Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this expertise to advocate for changes in the District’s laws, policies and programs. Learn more at www.childrenslawcenter.org.

ⁱⁱ 5 DCMR A-3108.3(b). 34 C.F.R. 303.21.

ⁱⁱⁱ DC Early Intervention Program, List of Established Conditions,

<http://www.guchdgeorgetown.net/ucedd/documents/ELIGIBILITY%20DIAGNOSES.pdf>.

^{iv} See “Informed Clinical Opinion,” NECTAC Notes No. 28, Aug. 2012, p. 3,

<http://ectacenter.org/~pdfs/pubs/nnotes28.pdf/>

^v 5 DCMR A-3108.3(c).

^{vi} 5 DCMR A-3110.