



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

JAN 28 2009

Dawn Wardyga  
State ICC Chairperson  
Rhode Island Parent Information Network  
175 Main Street  
Pawtucket, RI 02860

Dear Ms. Wardyga:

This is in response to your letter to Tracy Justesen, former Assistant Secretary for the Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education, dated September 21, 2008. The letter has been forward to the Office of Special Education Programs (OSEP), within OSERS, for response.

In your letter, you request that OSERS review Section 4.3(a) of Rhode Island's Rules and Regulations Pertaining to the Provision of Early Intervention Services for Infants and Toddlers with Disabilities and Their Families, effective September 2005, to determine if there is a conflict with the Federal statute regarding parent membership on the State Interagency Coordinating Council (SICC).

The 2004 Amendments to the Individuals with Disabilities Education Act (IDEA), at 20 U.S.C. 1441(b)(1)(A), regarding membership on the council, state: "not less than 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger."

The Rhode Island Rules and Regulations, at Section 4.3(a), state that members appointed to the council shall include: "at least twenty percent (20%) of parents of infants or toddlers including minority parents who have been enrolled in the Early Intervention Program within the past three (3) years [minimum 20%]."

You state in your letter that you believe that the Rhode Island Rules and Regulations are not consistent with the Federal requirements and that the State's more restrictive rule limits the pool of parents who may be nominated as members of the council.

We believe that Rhode Island's regulation, at Section 4.3(a), is consistent with the Federal requirements for parent participants on the SICC. The Federal provisions requiring that "members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger" and the Rhode Island Rules and Regulations statement that members must be "parents of infants or toddlers...who have been enrolled in the Early Intervention Program within the past three (3) years" are consistent with each other because all parents defined in the

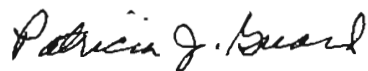
Rhode Island Rule meet the requirements of the IDEA (i.e., all the parents selected under the Rhode Island Rule would be parents of either infants or toddlers with disabilities or children with disabilities aged 12 or younger).

OSEP understands your concern over limiting the pool of parents who may be nominated as members of the council under the requirements in Rhode Island's regulation for 20% of the membership. Of course, Rhode Island is free to amend its rule, consistent with 20 U.S.C. 1441(b)(1)(A), to increase the available number of parents to participate in the SICC. Alternatively, Rhode Island could include other parent participants on the SICC as part of the remaining 80% of the members, consistent with the requirements of the IDEA. We recommend that you work with the State to resolve your concerns.

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 this information is helpful. If you have further questions, or if a discussion would be of benefit, please do not hesitate to contact Ginger Sheppard at 202-245-7353.

Sincerely,



Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs

cc: Brenda DuHamel