



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 20 2000

Honorable John Breaux  
United States Senate  
Washington, DC 20510

Dear Senator Breaux:

This is in response to your letter on behalf of your [REDACTED] asking about funds that are available for purchasing playground equipment for the West End Elementary School located in Jennings, Louisiana. Your letter has been referred to the Office of Special Education Programs (OSEP).

OSEP is responsible for administering the programs funded under Part B of the Individuals with Disabilities Education Act (Part B). Part B is a Federal law that authorizes financial assistance to State educational agencies (SEAs) and through them, to school districts to assist them in meeting the special education needs of eligible children with one or more of thirteen specified disabilities in mandated age ranges. We believe that this program provides the best possibility for support from funds administered by this Department for addressing your constituent's concerns. Under Part B, SEAs and school districts must ensure that a free appropriate public education (FAPE) is made available to all eligible children with disabilities. See 34 CFR §§300.121 and 300.600. A copy of the Part B regulations is enclosed for your constituent's information.

Section 605(a) of Part B

If the Secretary determines that a program authorized under this Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

The Department of Education has determined that Part B funds can be used to purchase "equipment" (The term "equipment" is defined in the Part B regulations at 34 C.F.R. §300.11). Under these provisions, it may be possible for a school district to use Part B funds to purchase playground equipment. In determining, in a specific case, whether this would be an appropriate use of Part B funds, a school district should take into account the following factors.

First, a school district must determine whether the acquisition of playground equipment is necessary and reasonable to carry out the purposes of the Part B program. Office of Management and Budget (OMB) Circular A-87 - which applies to a school district's use of

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

*Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.*

Page 2 - Honorable John Breaux

Part B funds - provides that costs, to be properly charged to a Federal grant program, must "[b]e necessary and reasonable for the proper and efficient administration of Federal awards." See: OMB Circular A-87, Attachment A, Section C. I.a. (A copy of OMB Circular A-87 is enclosed). Attachment A of OMB Circular A-87 also identifies "[e]quipment and other approved capital expenditures" as [t]ypical direct costs chargeable to Federal awards." Id. at Section E.2.

Second, in determining whether it is reasonable and necessary to use Part B funds to acquire playground equipment, a school district should consider if the purpose of that program is to ensure that a free appropriate public education (FAPE) is made available to children with disabilities. School districts, in providing FAPE, are required to ensure that a student with a disability participates, to the maximum extent appropriate to that student's needs, in nonacademic activities, including recess. See: 34 C.F.R §300.553. Therefore, if specially accessible playground equipment is necessary to enable a child with a disability - enrolled at a particular school - to receive an education in the least restrictive environment or to participate in activities with nondisabled children, a school district's use of Part B funds to purchase playground equipment for that school could be appropriate. The school district would have to comply with all other applicable requirements of OMB Circular A-87 and Part B in making such a purchase. For example, the purchase of the playground equipment would have to be necessary to the provision of special education and related services to children with disabilities. This determination, however, needs to be made by school districts on a case-by case basis in light of the Part B requirements and applicable cost principles described above.

See also OMB Circular A-87, Attachment B, Section 19(a)(2).

In his letter, your constituent asked if there are non-Federal organizations that may be able to help pay the costs of purchasing playground equipment. Your constituent may wish to contact local civic or charitable organizations, such as the Lions Club, the Junior Chamber of Commerce, and the local United Way.

I hope that this information is helpful in responding to your constituent. If I can be of further assistance, please let me know.

Sincerely,

Kenneth R Warlick  
 Director  
 Office of Special Education  
 Programs