



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

JUN 1 2004

Honorable Chas Anderson
Deputy Commissioner
Minnesota Department of Education
1500 Highway 36 West
Roseville, Minnesota 55113-4266

Dear Deputy Commissioner Anderson:

This is in response to your May 12, 2004 letter to Suzanne Sheridan, of our Office of the General Counsel. In that letter, you set forth a corrective action plan for ensuring that all local education agencies (LEAs) receive the flow-through funds to which they are entitled, pursuant to the formulae set forth in Part B of the Individuals with Disabilities Education Act, at 20 USC 1411(d) and (e) and 1419(g). The Office of Special Education Programs accepts that plan.

In your letter, you also ask for clarification as to whether the Minnesota Department of Education (MDE) can direct LEAs to expend a portion of the Part B flow-through funds that they receive from MDE in specified ways. You explain that MDE has directed all LEAs in the State to use a specified portion of the Part B flow-through funds they receive for personnel development, transition, coordinated services, and training in specific research based specialized instruction techniques. You further explain, however, that MDE now believes that it does not have authority to require all LEAs in the State to set aside certain portions of their Part B, section 611 flow-through allocations for specific State priorities, and request our guidance as to whether that assumption is correct.

Part B requires, at 20 USC 1412(a)(18)(a) and 34 CFR §300.155, that MDE ensure that public agencies in the State expend all Part B funds that they receive in a manner that is consistent with Part B. MDE may not establish specific State priorities and require all public agencies in the State to spend a portion of their flow-through funds in accordance with those priorities.

We, however, recognize the importance of the priorities that MDE has established (i.e., personnel development, transition, coordinated services, and the provision of appropriate specialized instruction). Indeed, Part B requires that, as part of its general supervisory responsibility under 20 USC 1412(a)(11) and 34 CFR §§300.141 and 300.600, MDE must ensure that public agencies comply with the Part B requirements related to qualified personnel, transition, and the provision of a free appropriate public education. MDE must exercise its general supervisory responsibility (including its monitoring and complaint resolution procedures) to ensure compliance with all Part B requirements.

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If you have any questions regarding this letter, please contact Lawrence Ringer of my staff at (202) 205-9079.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Smith Lee". The signature is written in a cursive style with a small flourish at the end.

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Dr. Norena Hale