



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

October 29, 2009

Diane Willcutts
Secretary, Board of Directors
Learning Disabilities Association of Connecticut
999 Asylum Avenue
Hartford, CT 06105

Dear Ms. Willcutts:

As you know from the June 5, 2009 electronic mail (e-mail) communication to you from the U.S. Department of Education (Department) Office of Inspector General (OIG), your complaint to the OIG Hotline was forwarded to the Office of Special Education and Rehabilitative Services (OSERS), specifically, the Office of Special Education Programs (OSEP), for response. We delayed responding until after a planned Technical Assistance (TA) visit to Connecticut conducted by the OSEP State Contact for Special Education on September 28, 2009. The maintenance of effort (MOE) reductions under 34 CFR §300.205, which you reference in your complaint, were one of the topics of that visit.

The first issue you raised in your complaint is related to the Governor's proposed allocation of State Fiscal Stabilization Funds. As this issue is not generally a matter OSERS handles, I have forwarded your first concern to the Office of Elementary and Secondary Education for response. That office will respond to you regarding this concern.

Regarding the second issue you raise in your complaint, you indicated in your email to the OIG that you believe that school districts are "reporting an intent to use all of the Individuals with Disabilities Education Act (IDEA) stimulus money to help fill in their own budget gaps, intending to reduce their MOE by 50% this year and continuing with the reduced MOE next year," and indicated that it appears that this plan is in compliance with IDEA. However, you expressed concern that any planned reduction in MOE by districts would not be in keeping with the intent of the American Recovery and Reinvestment Act of 2009 (ARRA). I hope the information provided below is helpful to you.

Part B IDEA funds received by State educational agencies (SEAs), and subsequently allocated to local educational agencies (LEAs) under ARRA, are a supplement to the regular Federal Fiscal Year (FFY) 2009 Part B IDEA grant funds. The intention for these funds is to spend them quickly to save and create jobs; improve student achievement through school improvement and reform; ensure transparency, reporting and accountability; and invest one-time ARRA funds thoughtfully to minimize the "funding cliff." The Department has prepared guidance, "American Recovery and Reinvestment Act of 2009: Using ARRA Funds Provided Through Part B of the Individuals with Disabilities Education Act to Drive School Reform and Improvement," available at <http://www.ed.gov/policy/gen/leg/recovery/guidance/idea-b-reform.pdf>, to encourage districts to plan for effective use of these dollars. However, the Department has acknowledged that many districts are experiencing decreased revenues, and may opt to use Part B IDEA funds made available under ARRA to support teacher salaries and other critical short-term needs. "Filling budget gaps" is one mechanism to save and create jobs, as well as to support and continue existing school improvement and reform measures.

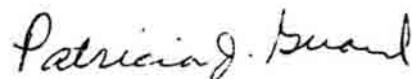
ARRA did not amend the MOE requirements under Part B of IDEA. Pursuant to 34 CFR §300.205, under certain conditions, for any fiscal year for which the allocation received by an LEA under 34 CFR §300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by 34 CFR §300.203(a) by not more than 50 percent of the amount of that excess. Accordingly, LEAs are not permitted to reduce their MOE by 50 percent; rather, the reduction in MOE is limited to 50 percent of the increase in the Part B allocation received under 34 CFR §300.705. Once the LEA properly reduces its MOE under this provision, that amount becomes the level of effort the LEA must maintain in subsequent years. Additionally, the LEA must use an amount of local funds equal to the reduction to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA), regardless of whether the LEA is using funds under the ESEA for those activities. For further information about MOE and other questions relating to ARRA funding as it applies to Part B of the IDEA, please see the Department's guidance document, "Funds for Part B of the Individuals with Disabilities Education Act Made Available Under the American Recovery and Reinvestment Act of 2009," provided at <http://www.ed.gov/policy/gen/leg/recovery/guidance/idea-b.pdf>.

OSEP visited the Connecticut SEA on September 28, 2009 and understands that many of the LEAs in Connecticut are eligible to exercise their authority to reduce their MOE pursuant to 34 CFR §300.205. OSEP discussed both the use of Part B IDEA ARRA funds and the LEA reductions in MOE with the SEA. The SEA is aware of its obligations and responsibilities under the IDEA regarding the use of Part B IDEA ARRA funds and MOE reductions. The State reported to OSEP that training has been provided to the LEAs regarding both provisions, that the SEA continues to monitor the use of Part B IDEA ARRA funds and any MOE reductions, and that the SEA is working with the LEAs to ensure that these requirements are implemented appropriately.

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 to you. If you have further questions, please do not hesitate to contact Richard Steffan, the State Contact for Connecticut in OSEP, at 202-245-6759 or by e-mail at Richard.Steffan@ed.gov.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Director of Special Education