



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

July 24, 2001

Honorable Patsy Mink
2210 Rayburn Office Building
U. S. House of Representatives
Washington, DC 20515

Dear Ms. Mink:

Thank you for your letter to Secretary Paige requesting information on the Individuals with Disabilities Education Act (IDEA). I have been asked to respond on his behalf. You have asked a number of questions regarding this program for which responses are provided below.

Q. What is the purpose of the IDEA funding and how must those funds be used?

A. The primary purpose of IDEA funding is to help States in carrying out their responsibilities to educate children with disabilities. Children with disabilities have a right to a free appropriate public education based on the protections provided in the Constitution of the United States. The primary vehicle for achieving this purpose is the Grants to States program authorized under Part B, section 611 of the Act. Specifically, under the Grants to States program States receive financial support to help meet the excess cost of providing special education *to* children with disabilities. For example, in the area of school personnel, while all children need teachers as part of the basic education program, school districts may incur additional costs because some children with disabilities may require instruction in smaller classes or may require an aide to assist in a classroom. In this case, the costs associated with the provision of the aide may be considered excess costs.

Q. Does the Individuals with Disabilities Education Act require Congress to provide each State with an allocation under the Grants to States program of 40 percent of the national average per pupil expenditure in public elementary and secondary schools (APPE)?

A. No. The IDEA provides that the *maximum* amount that any State may receive is the national APPE times the number of children with disabilities ages 3 through 21 that it serves. (IDEA section 611(a)(2)). The IDEA does not require Congress to appropriate the maximum amount of funding that States may receive.

Q. Did the Congress otherwise commit itself to providing 40 percent?

A. There is no formal commitment in the IDEA for Congress to provide 40 percent. The Education for All Handicapped Children Act of 1975 established a 40 percent maximum allocation for each State.

Q. Why does the law specify 40 percent?

A. At the time that the Education for All Handicapped Children Act was under discussion, it was believed that the cost of educating a child with a disability was about twice that for

educating a child without a disability or roughly double the national APPE. The Senate version of the bill would have provided a maximum authorization of \$300 through 1979 for each child with a disability ages 3 through 21 served up to a maximum of 10 percent of the general population in each State ages 3 through 21. The House version of the bill would have provided 50 percent of the national APPE for each child with a disability ages 3 through 21. The House and Senate reached a compromise and agreed on a maximum level of 40 percent of the national APPE times the number of children ages 3 through 21 served in each State, except that in determining this figure no more than 12 percent of the general population ages 5 through 17 in any State could be included.

Q. How are funds distributed under the Grants to States program? What is the formula and why was it changed in the 1997 amendments to the IDEA?

A. Subject to several State maximum and State minimum funding requirements, each State is first allocated an amount equal to the amount that it received in 1999 (Hawaii received \$14,156,512 in 1999). Eighty-five percent of the total appropriation above that amount is distributed on the basis of the relative numbers of children in the general population in the age ranges for which States guarantee free appropriate public education to children with disabilities (Hawaii provides a guarantee to children with disabilities ages 3 through 19). Fifteen percent of the remaining appropriation is allocated based on the relative numbers of children living in poverty in the age ranges for which States guarantee free appropriate public education to children with disabilities.

Prior to 2000 funds were distributed among the States based on the relative numbers of children ages 3 through 21 with disabilities that they reported serving.

The formula for allocating funds was changed by the Individuals with Disabilities Education Act Amendments of 1997 in order to remove incentives for children to be inappropriately identified as disabled and placed in special education when their educational needs could be met in regular education. These incentives had become a serious concern as the percentage of children with less severe disabilities identified increased significantly, driving up the total numbers of children served.

Q. How much would Hawaii receive if it were awarded the maximum allocation under the Grants to States program? How does this compare to the maximum allocations for other States of comparable size?

A. Since the maximum funding level that a State may receive is based on the number of children with disabilities that are served in the State, States of comparable size that identify and serve higher percentages of their children as children with disabilities would receive more funds than States that serve lower percentages. Nationally, about 8.5 percent of children ages 3 through 21 were identified as disabled under IDEA for the December 2000 child count. This is the child count applicable to the distribution of fiscal year 2001 funds.

Hawaii reported 23,951 children with disabilities in its December 2000 count. This is about 7.6

percent of Hawaii's 3 through 21 population. This number of children multiplied by 40 percent of the currently estimated APPE of \$6,800 for fiscal year 2001 would have resulted in a maximum funding level of \$65.1 million.

Alternatively, in other similarly populated States, Maine reported 35,633 children with disabilities in its December count, or 11.2 percent of its 3 through 21 population. This number of children would have resulted in a maximum funding level of \$96.9 million. New Hampshire's count of 29,663, or 9.3 percent of its population, would have generated a maximum of \$80.7 million for fiscal year 2001. Idaho's count of 29,174, or 7.6 percent of its population, would have generated a maximum of \$79.4 million for fiscal year 2001.

Q. Can IDEA funds be used to pay for hearing aids or eyeglasses? What is the role of insurance in covering the costs of special education?

A. IDEA funds can be used to pay for hearing aids or eyeglasses if the team developing the child's individualized education program determines that they are necessary to provide a child with special education. However, IDEA funds would not appropriately be used to provide one of these devices to a child who would not need special education if using the device.

Most private insurance providers do not include in their policies funding for special education or related services. However, if an insurance policy includes a service required to be provided as a part of free appropriate public education, the school may access that insurance if the school makes the parents aware that their refusal to permit the school access to their private insurance does not relieve the school of its responsibility to ensure that all required services are provided at no cost to the parents, and if the parents provide informed consent. (34 Code of Federal Regulations section 300.142(f))

Schools may access Medicaid or other public insurance benefits programs in which a child participates to provide or pay for required services. However, schools may not require parents to enroll in these programs as a condition for receiving needed special education or related services. Accessing these public insurance programs must also not result in costs to the parents, or real or potential reduction in future benefits under those programs. (34 Code of Federal Regulations section 300.142(e))

Q. How are the Payments for Children with Disabilities under the Impact Aid program allocated? How must these funds be used?

A. Impact Aid Payments for Children with Disabilities provides assistance to school districts that are deprived of local revenue due to a Federal presence. These Impact Aid payments provide a portion of the costs of educating federally connected students with disabilities that, in other school districts, are met with local funds.

The program provides payments based on the following categories of federally connected students who are eligible for services under the IDEA:

(A) students who live on Federal property with a parent who is a foreign military officer accredited by a foreign government;

(B) students who live on Federal property and who have a parent on active duty in the uniformed services of the United States;

(C) students who live on Indian lands; and

(D) students who do not live on Federal property but who have a parent on active duty in the uniformed services of the United States, or a parent who is a foreign military officer accredited by a foreign government.

Available funds are paid to school districts through a formula based on the number of eligible students with disabilities enrolled in each LEA, except that a student in category D receives one-half of the weight provided for students in categories A, B, and C. Funds are ratably distributed based on the weighted student count.

School districts that receive payments under this authority must use the funds to provide these four types of students with a free appropriate public education in accordance with the IDEA. These payments are intended to help pay the excess costs of educating these students. There are no requirements about how these funds are allocated below the school district level.

I hope that these answers help respond to the interests and concerns that your constituents have expressed to you.

Sincerely,

/signed Thomas P. Skelly/

Thomas P. Skelly
Director, Budget Service