



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAY 12 2000

Mr. Lawrence Gloeckler
Deputy Commissioner for Vocational and
Educational Services for Individuals
With Disabilities
State Education Department
111 Education Building
Washington Avenue
Albany, New York 12234

Dear Mr. Gloeckler:

We are writing to request clarification of section 4410-b recently enacted by your State legislature to address the use of flow-through funds under sections 611 and 619 of the Individuals with Disabilities Education Act (IDEA). Section 4410-b 2. and 3. state that "each school district receiving an allocation of funds pursuant to [section 611 and section 619 of [IDEA] shall sub-allocate such funds . . . to other public and private agencies providing special education services to students . . . who were placed in such agency by the school district's IEP team."

As we stated in a November 24, 1999 letter to you, nothing in IDEA would preclude a State from requiring local educational agencies (LEAs) to make payments to private schools for the provision of special education and related services to children with disabilities. The State is not precluded by Federal law from requiring an LEA to pay a private school that provided special education and related services to a child with a disability the amount of Part B funds the LEA received for that child. The LEA could use any source of funds, including Part B funds, to pay that amount. However, the State cannot require the LEA to use its Part B flow-through funds to make the payment to the public or private agency. We are therefore requesting clarification that New York does not interpret section 4410-b to require LEAs to use their Part B flow-through funds to make the payment to the public or private agency.

Please provide this clarification in writing. If we can be of further assistance, please contact Dr. JoLeta Reynolds of OSEP at (202) 205-5507.

Sincerely,

Kenneth R. Warlick
Director
Office of Special Education Programs