



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

SEP 13 2004

Mr. Jeffrey M. Jordan  
Associate Director  
Office of Federal and State Grants Management  
Ohio Department of Education  
25 South Front Street, Mail Stop G03  
Columbus, Ohio 43215-4183

Dear Mr. Jordan:

Thank you for your letter of July 2, 2004 requesting, pursuant to 34 CFR §81.33, guidance on the question of how a State educational agency (SEA) establishes compliance with the requirement in 20 U.S.C. §1411(g) on the portion of its Part B of the Individuals with Disabilities Education Act (IDEA-B) grant that must flow through to its local educational agencies (LEAs). Specifically, your agency's view is that an SEA complies with this requirement by allocating the required portion of its IDEA-B grant to its LEAs. An alternative view, set out in a management letter issued to your agency by the Ohio Auditor of State's Office (OAS), is that compliance with the IDEA-B's minimum flow-through requirement is only attained when funds are actually disbursed by the SEA to its LEAs. Under OAS's view, allocation of IDEA-B funds is not sufficient to meet the minimum flow-through requirement.

As explained below, we disagree with OAS's view. Additionally, as provided for at 34 CFR §81.33(b)(3), your agency can rely on this letter as a basis for its future conduct on the question of whether the "allocation," as distinct from "disbursement," of IDEA-B funds is sufficient to meet the minimum flow-through requirements of 20 U.S.C. §1411(g)(1). This guidance applies only to the factual circumstances specifically described in your guidance request of July 2, 2004.

The IDEA-B, at section 611(g)(1), provides that:

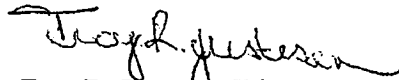
Each State that receives a grant under this section for any fiscal year shall distribute any funds it does not retain under subsection (f) of this section (at least 75 percent of the grant funds) to local educational agencies in the State that have established their eligibility under section 1413 of this title, and to State agencies that received funds under section 614A(a) of this Act for fiscal year 1997, as then in effect, and have established their eligibility under section 1413 of this title, for use in accordance with this subchapter.  
20 U.S.C. §1411(g)(1).

Under this provision and the permanent formula set out in section 611(g)(2)(B), 20 U.S.C §1411(g)(2)(B), an SEA must distribute, or flow through, a certain minimum amount of its IDEA-B grant to its LEAs. We have concluded that an SEA satisfies this requirement by allocating to its LEAs the required minimum of the SEA's IDEA-B grant. In so doing, the SEA gives its LEAs the authority to obligate the IDEA-B funds that it has flowed through. The strength of this interpretation is underscored by the fact that section 611(g)(2), which sets out the formula that SEAs must follow in flowing IDEA-B funds through to LEAs, is entitled "Allocations to Local Educational Agencies." 20 U.S.C. §1411(g)(2). Our conclusion, therefore, is that the term "distribute," as used in section 611(g)(1) of the IDEA-B, means allocate rather than disburse.

An SEA, as your letter notes, should only disburse the IDEA-B funds allocated to its LEAs consistent with requirements of the Cash Management Improvement Act, 31 U.S.C. §§3335 and 6503 and 34 CFR Part 205, and the Education Department General Administrative Regulations at 34 CFR §80.21.

Once again, thank you for your inquiry. If you have any further questions on this matter, please feel free to contact Ruth Ryder at (202) 245-7629, Dr. JoLeta Reynolds at (202) 245-7459 (press 3), or Martin Benton at (202) 245-7270.

Sincerely,



Troy R. Justesen, Ed.D.  
Acting Deputy Assistant Secretary  
Office of Special Education  
and Rehabilitative Services

cc: Mr. Mike Armstrong  
Director  
Office for Exceptional Children