



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

DEC 8 2008



Mr. Leigh M. Manasevit  
Brustein & Manasevit  
3105 South Street, NW  
Washington, DC 20007

Dear Mr. Manasevit:

I am writing in response to your letter of October 17, 2008 in which you pose the following scenario and question related to the public school choice requirements of Title I of the Elementary and Secondary Education Act (ESEA), as amended:

A student attends school (X) that is identified as a school in need of improvement and the student transfers to school (Y), which is not classified as a school in need of improvement and at no time becomes one. In order to attend school (Y), the LEA selected the student as eligible to have transportation paid ... If the funds available to the LEA under the 20% set-aside for choice transportation and SES are reduced due to a reduction in Title I funds or if the LEA cannot provide as much transportation due to an increase in transportation costs, what factors may the LEA use to determine which, if any, student's public school choice transportation can be terminated?

If a local educational agency's (LEA) costs for providing choice-related transportation and supplemental educational services (SES) to eligible students exceed an amount equal to 20 percent of its Title I, Part A allocation, the LEA may spend more than that amount on the combination of choice-related transportation and SES. In the alternative, if available funds are not sufficient to provide transportation to all students exercising the option to transfer to another public school that has not been identified for improvement, an LEA must make decisions about which students will receive transportation consistent with the requirements in section 1116(b)(1)(E)(ii) of the ESEA. Section 1116(b)(1)(E)(ii) requires an LEA to give priority to the lowest-achieving children from low-income families in providing students the option to transfer to another public school that has not been identified for improvement. It is up to the LEA (or a State, if it chooses to establish procedures) to determine how to apply the priority, including whether to apply the priority to students who previously transferred as well as to students exercising the option to transfer for the first time in the current school year. Note that the LEA must still provide all eligible students the opportunity to transfer, even if it cannot provide transportation to all of them.

Sincerely,

Kerri L. Briggs, Ph.D.

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