



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

AUG 16 2004

Leigh M. Manasevit
Brustein & Manasevit
Attorneys at Law 3105
South Street, NW
Washington, DC 20007

Dear Mr. Manasevit:

This is in response to your letter requesting clarification on questions concerning application of the cap on IDEA Part B funds to schoolwide schools that do not combine their IDEA funds.

Question 1: Does the LEA schoolwide cap, established by 20 USC § 1413 (a)(2)(D), apply to schoolwide programs that elect not to combine Part B funds in their schoolwide plan?

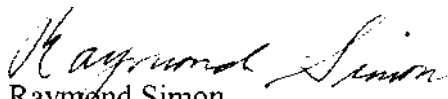
Response: No. In schoolwide program schools that elect not to combine Part B of IDEA funds, the full amount of IDEA funds are used to serve eligible children with disabilities, and the school is required to comply with all the requirements of Part B of IDEA - see §200.29 (c)(3)(iv).

Question 2: Is the Part B cap triggered if Part B funds are used in a schoolwide program school, but not included in the schoolwide program, not combined with other schoolwide funds and used exclusively to provide IDEA services to eligible disabled children?

Response: No. The Part B IDEA cap cited in §200.29 (c)(3)(ii) is applied only if the school consolidates and uses these funds in its schoolwide program.

I hope that these responses provide sufficient clarification of the issues you presented. Feel free to contact me should you require further assistance.

Sincerely,


Raymond Simon