

September 17, 2008

Tracy R. Justesen
Assistant Secretary
Office of Special Education and Rehabilitative Services
Office of Special Education Programs
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Assistant Secretary Justesen:

I am writing to obtain clarification on the correct method to fund state agencies under IDEA Part B that provide direct services to children with disabilities under 34 C.F.R. §300.228.

Pursuant to 34 C.F.R. §300.228 “any state agency that desires to receive a subgrant for any fiscal year under 34 C.F.R. §300.705 must demonstrate to the satisfaction of the SEA that all children with disabilities who are participating in programs and projects funded under Part B of the Act receive FAPE, and that those children and their parents are provided all the rights and procedural safeguards.”

These funding regulations require the state educational agencies (“SEAs”) to make the necessary base payments under 34 C.F.R. §300.705(b)(1-2) and then allocate 85% of the remaining funds to local educational agencies (“LEAs”) “on the basis of the relative number of children enrolled in public and private elementary schools and secondary schools” within the jurisdiction of the LEAs. 34 C.F.R. §300.705(3)(i). The SEAs then allocate the remaining 15% of funds to LEAs “in accordance with their relative number of children living in poverty, as determined by the SEA.” 34 C.F.R. §300.705(3)(ii).

Our questions concern a School for the Blind and a statewide Department of Juvenile Services. Are we correct that when funding these institutions under 34 C.F.R. §300.705 we are to use the three part formula that includes a base payment allocation, 85% population allocation, and 15% poverty allocation? If not, what formula are we to use? If so, how do those factors apply in the following scenarios?

Calculating Population (85%) 34 C.F.R. §300.705(3)(i):

1. If the School for the Blind includes children from the entire State, how is the population (85%) of the relative number of children enrolled in public and private elementary and secondary schools calculated for the School for the Blind?

2. If the Department of Juvenile Services provides educational services to children from the entire State, how is the population (85%) of the relative number of children enrolled in public and private elementary and secondary schools calculated for the Department of Juvenile Services?

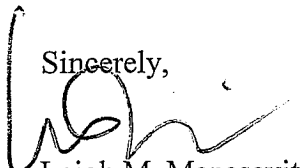
Calculating Poverty (15%) 34 C.F.R. §300.705(3)(ii):

1. If the School for the Blind includes children from the entire State, how is the relative number of children living in poverty (15%) calculated for the School for the Blind?

2. If the Department of Juvenile Services provides educational services to children from the entire State, how is the relative number of children living in poverty (15%) calculated for the Department of Juvenile Services?

Thank you for the opportunity to raise these questions. These are issues of compelling and immediate interest to many of our state clients and your response will be greatly appreciated. Thank you in advance for your prompt assistance.

Sincerely,



Leigh M. Manasevit