



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

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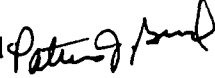
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OSEP 01- 14

MEMORANDUM

TO: State Directors of Special Education

FROM: Patricia J. Guard 
Acting Director
Office of Special Education Programs

SUBJECT: Information Regarding Amendments to the 20 Percent Rule under section 300.323 of Part B of IDEA

On May 10, 2000, the Department published a notice of proposed rulemaking (NPRM) in the Federal Register (65 FR 30314) to amend the regulations governing the Assistance to States for the Education of Children with Disabilities program (34 CFR part 300). The NPRM proposed to implement a statutory provision regarding the permissive treatment of a portion of Part B funds by local educational agencies (LEAs) in certain fiscal years, as added by the IDEA Amendments of 1997 (see section 613(a)(2)(C) of the Act and §300.233 of the regulations).

The final regulations were published January 8, 2001 (66 FR 1474) and a notice delaying the effective date of the new regulations was published February 2, 2001 (66 FR 8770). These regulations took effect April 10, 2001 and are intended to ensure effective implementation of the 20 percent rule by clarifying which funds under Part B of IDEA can be included in the 20 percent calculation, and, as a result, to reduce the potential for audit exceptions.

Under the new statutory provision, for any fiscal year (FY) for which the appropriation for section 611 of the IDEA exceeds \$4.1 billion, an LEA may treat as local funds up to 20 percent of the amount it receives that exceeds the amount it received under Part B during the prior year. By treating certain Federal funds as local funds, an LEA will be able to meet the maintenance of effort requirement of §300.231 even though it reduces the amount of other local or local and State funds, as the case may be, by an amount equal to the amount of Federal funds that may be treated as local funds. The fiscal year ending September 30, 1999 was the first year that the Part B appropriation exceeded \$4.1 billion.

Appendix C to the final rule provides background information about the 20 percent rule and its intended effect, including specifying which funds under Part B of the Act are covered by the provision (as described in §300.233), and the basis for the Department's decision regarding those funds. It also includes examples showing how the 20 percent rule would apply in several situations.

Attachments

**cc: Chief State School Officers
Congressional Staff
Federal Resource Center
Independent Living Centers
National Disability Organizations
Parent Training Centers
Part C Coordinators
Part C Lead Agencies
Protection and Advocacy Agencies
Regional Resource Centers
RSA Regional Commissioners
Section 619 Coordinators**