



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

OCT 27 2009

Sherry L. Kolbe
Executive Director and CEO
National Association of Private Special Education Centers
1522 K Street, NW, Suite 1032
Washington, DC 20005-1202

Dear Ms. Kolbe:

This is in response to your July 16, 2009 letter to Ruth Ryder, in the Office of Special Education Programs (OSEP), U.S. Department of Education. In your letter, you ask, specifically, "can private specialized programs compensate therapist employees and contractors for attending training sessions held on program campuses that occur beyond regular work hours with 611/619 funds? The point of the training, of course, is that a better trained therapist will provide a better educational experience for children."

As you confirmed during a telephone conversation on September 17, 2009 with Deborah Morrow, the "private specialized programs" you mention in your letter are privately-run facilities that provide special education and related services to children with disabilities who are placed in the facilities by public agencies, pursuant to 34 CFR §§300.145-300.147. These private specialized programs receive funds under sections 611 and 619 of the Individuals with Disabilities Education Act (IDEA) from public agencies as compensation (tuition) for the attendance of the children with disabilities who are placed at these facilities by public agencies. The "contractors" to which you refer in your question are individuals, or individuals employed by businesses, with whom the private specialized programs contract to provide special education and/or related services to children with disabilities who are placed by public agencies in these private specialized programs.

The private school or facility may elect to use some of the section 611 and 619 funds it receives as compensation for providing special education and related services to children with disabilities who are placed in the private school or facility by a public agency to compensate therapist employees and contractors for attending training sessions beyond regular work hours to ensure that personnel providing special education and related services are properly trained and prepared to serve these children. The expenditure of funds under sections 611 and 619 of the IDEA for professional development activities is an allowable activity in order to ensure the provision of a free appropriate public education (FAPE) under both IDEA and Office of Management and Budget (OMB) Circular A-87. See 20 U.S.C. 1413(a)(3) and 2 CFR Part 225, Appendix B.42.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

If you have further questions, please don't hesitate to contact Dr. Deborah Morrow at 202-245-7456 or by email at Deborah.Morrow@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia J. Guard". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Patricia J. Guard
Acting Director
Office of Special Education
Programs