



State of New Jersey  
DEPARTMENT OF EDUCATION  
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DEPARTMENT OF EDUCATION  
OS/ES/CCCJ

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CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

ROCHELLE R. HENDRICKS  
Acting Commissioner

September 29, 2010

The Honorable Arne Duncan  
U.S. Secretary of Education  
Lyndon Baines Johnson (LBJ)  
Department of Education Building  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Secretary Duncan:

On behalf of the State of New Jersey, I am writing to request a waiver of the IDEA, Part B state-level MOE requirement for fiscal year 2010 (FY10) in accordance with §300.163(c). The State has experienced "exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State."

The effects of a structural budget deficit, the ongoing national recession and a significant loss in revenue deteriorated our fiscal situation and produced a nearly \$2 billion deficit in FY10. Governor Christie issued an emergency executive order (Number 14) in February 2010 directing the Commissioner of Education to freeze some of the remaining State school aid payments to school districts. As a result of the executive order, the State's Office of Management and Budget put a portion of the nearly \$8 billion FY10 state aid appropriated for school districts in reserve.

Subsequently, legislation adopted on June 29, 2010 deappropriated approximately \$37.3 million in special education categorical aid and \$14.8 million of Equalization Aid provided for special education. The \$52 million deappropriated represents a smaller reduction for special education funding, 4.2 percent, than the 6.2 percent reduction in overall state aid to school districts and the 6.9 percent reduction in total state appropriations.

As a condition of receiving IDEA, Part B funds, a state must not reduce the amount of state financial support for special educational and related services for children with disabilities below the amount of that support for the preceding fiscal year. Waivers of this requirement are allowed "only when a state demonstrates that it has experienced 'exceptional or uncontrollable circumstances.'" With the State facing a very challenging fiscal climate, we must request a waiver to reduce our appropriated support calculation by roughly \$25.7 million or 2.1 percent for FY10 (see Special Education MOE table below).

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Special Education MOE	2009 (A)	2010 (Original Appropriation) (B)	2010 (Adjusted Appropriation - June 24, 2010) (C)	Difference (A-C)
Special Education Categorical Aid	\$718,131,000	\$730,144,000	\$692,844,000	
Extraordinary Special Education Costs	\$52,000,000	\$140,095,000	\$140,095,000	
Estimated portion of Equalization Aid used for Special Education	\$431,235,182	\$357,558,179	\$342,755,267	
Katzenbach School for the Deaf	\$3,590,000	\$3,590,000	\$3,590,000	
<b>Total</b>	<b>\$1,204,956,182</b>	<b>\$1,231,387,179</b>	<b>\$1,179,284,267</b>	<b>\$25,671,915</b>

Thank you for your assistance in this matter. We look forward to your favorable review of our waiver request. If you have any questions, please do not hesitate to contact Barbara Gantwerk, assistant commissioner of the Division of Student Services, at 609-292-9899.

Sincerely,

Rochelle R. Hendricks  
Acting Commissioner

RRH/BH/ml

- c: Andrew Smarick  
Gregg Edwards  
Barbara Gantwerk  
Yut'se Thomas  
David Joye  
Mary Byrne