

This is intended as general guidance, not an authoritative analysis.

Stimulus Bill and Omnibus Budget Funding for Special Education

As you may know, the American Recovery and Reinvestment Act (stimulus bill) contains additional IDEA funds, state stabilization funds, and other funds for education. The ARRA was passed in February. In addition, this week, the President signed the Omnibus Appropriation Act for 2009, which provides the regular Part B funds for this year. Together, they substantially increase the amount of IDEA Part B and Part C funding. This may have an impact on the amount of money LEAs devote to special education from their own funds and those of the state, by lowering the effective Maintenance of Effort requirement. The Department of Education issued guidance this week about the ARRA funds:

<http://www.ed.gov/policy/gen/leg/recovery/index.html>

The 2009 Omnibus Appropriations Act (federal budget)

Today, the President signed into law the Omnibus Appropriations Act for 2009, H.R. 1105. The Omnibus funds IDEA at \$11.5 billion, approximately \$500 million more than in 2008. This money shall be allocated among the states according to the Department of Education formulas. You can read the Omnibus here: hdl.loc.gov/loc.uscongress/legislation.111hr1105 and you can read the Appropriations Committee fact sheet here, which explains what it all means:

<http://appropriations.house.gov/pdf/LHEFY0902-23-09.pdf>

The ARRA/Stimulus Guidance

In addition, in February, Congress passed the Stimulus bill (ARRA). As you may remember from earlier COPAA guidance, the ARRA contains three different kinds of money: additional IDEA funds; Title I funds; and State Fiscal Stabilization Funds.

IDEA Funds. The stimulus makes available an additional \$11.3 billion in Part B Grants to States, as well as additional Part B preschool and Part C funds. This almost doubles the amount of funds available under the budget (Omnibus) through Part B.

Preliminary state allocations of these funds are available here:

<http://www.ed.gov/about/overview/budget/statetables/recovery.html>

The Department of Education has issued Guidance regarding the use of federal stimulus IDEA funding under the American Recovery and Reinvestment Act. The documents may be found here: <http://www.ed.gov/policy/gen/leg/recovery/index.html>

and the guidance for the additional IDEA stimulus funds may be found here:

<http://www.ed.gov/policy/gen/leg/recovery/factsheet/idea.html>

One issue that has arisen is how school districts can absorb and spend the additional IDEA funds. Essentially, they argue that they can't absorb this money quickly and it would be difficult to figure out things they can purchase/people they can hire if they have to let them go in 2 years when the money is gone. This seems to be an attempt to set up a future argument about IDEA spending, and it's important to be aware of these claims. The Department of Education points out several suggestions for how the money could be spent over these 2 years, including state of the

art assistive technology devices and training; positive behavioral support training; transition coordination; intensive district-wide professional development for regular and special education teachers on evidence-based school-wide strategies in reading, math, writing and science, and positive behavioral supports; and others. These are similar to points COPAA made in our initial Stimulus Guidance.

The Stimulus money is intended to cover 2 years (2009 & 2010), and the Department will allocate money twice, in March 2009 and October 2009. The Department urges States to quickly make the money available to the LEAs. The March allocation should be allocated by April. An LEA should obligate the majority of these funds during school years 2008–09 and 2009–10 and the remainder during school year 2010–11.

Supplement, not Supplant. Some school districts have asserted that they are going to use the money for general education, or that because they are receiving additional ARRA funds for special-education, they can divert what they would spend from their own funds on special-education to other programs. This is largely wrong. As we previously explained, the Senate Stimulus bill would have allowed SEAs/LEAs to use all IDEA funds to replace (supplant) state/local special ed funds. This would have allowed states and school districts to cut overall special-ed spending, and changed an IDEA requirement that has existed since 1975. But the final stimulus bill did not include the Senate language. As a result, IDEA funds may not be used to supplant state and local funds.