



VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES
Fiscal and Administrative Services
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May 2009

To: Superintendents of Public Schools
Public School District Special Education Data Managers
Superintendents of Special Act School Districts
Special Act School District Special Education District Data Managers
Superintendents of State-Operated Schools
State-Operated School Special Education Data Managers
State Agency Special Education Data Managers

From: Michael C. Plotzker

Subject: Submission of Application for Individuals with Disabilities Education Act (IDEA) Part B Section 611 and Section 619 Federal Funding for the Education of Students with Disabilities, 2009-2010, **including The American Recovery and Reinvestment Act of 2009 (ARRA) IDEA Part B funds.**

Application materials pertaining to section 611 and section 619 sub-grant programs are due to the State Education Department by **July 1, 2009**. However, districts are strongly encouraged to submit the application materials as soon as possible, even in advance of the due date. The Application and corresponding forms are only available from the following web site: www.vesid.nysed.gov/spedfin/. In accordance with federal rules, local educational agencies (LEAs) may not obligate funds for a proposed federal grant project until the Application form and budget documents have been received by the Department in a substantially approvable form.

If you have any questions about the Application, please contact the VESID Special Education Budget and Finance Unit at (518) 486-4734.

Application Contents:

- Overview of New York State’s IDEA, Part B Federal Sub-grant Programs for the Education of Students with Disabilities;
- New York State (State) Policy Governing the Administration of Federal **Regular IDEA, Part B** section 611 and section 619 Sub-Grant Programs and **ARRA IDEA, Part B** section 611 and section 619 Sub-Grant Programs; and
- State Procedures for the Disbursement of Federal IDEA, Part B Flow-Through Allocations for 2009-2010.

Highlights of the Application Policies and Procedures for 2009-2010:

A) General Highlights Regarding the Application Process

- Separate FS-10s will be required. Four must be submitted (1 original and 2 copies of each):
 - Regular IDEA, Part B section 611
 - ARRA IDEA, Part B section 611
 - Regular IDEA, Part B section 619
 - ARRA IDEA, Part B section 619
- Section 611 and section 619 FS-10 proposed budgets for IDEA, Part B ARRA funds (ARRA IDEA) must be clearly labeled as “IDEA, Part B ARRA Section 611 funds” and “IDEA, Part B ARRA Section 619 funds” next to “Funding Source” found at the top of p. 1 of each FS-10 and each sub-grant project should have the correct project codes indicated on the **Budget Summary Page (ARRA section 611: 5032-10-_____ and ARRA section 619: 5033-10-_____)** prior to submission to SED. **Please note that the labels for ARRA projects can be easily distinguished from the labels for the regular 611 and 619 sub-grants, as the project number will be in reverse (white font, black background).** Budgets for regular IDEA, Part B section 611 and section 619 (regular IDEA) must be labeled Regular IDEA section 611 and Regular IDEA section 619, with project numbers beginning with **0032-10-** and **0033-10-** respectively.
- All applicants must provide the information on the **Application Cover Page** of the 2009-2010 *Application for Federal Individuals with Disabilities Education Act (IDEA) Funding for the Education of Students with Disabilities* (application) pertaining to the actual expenditure of local effort for special education costs for the 2007-2008 and 2008-2009 school years and the anticipated expenditures for local effort for the 2009-2010 year for special education to students.
- **Beginning with the 2009-2010 school year, if the amount of actual local effort for the 2008-2009 school year and/or the anticipated expenditure of local effort (MOE) for the current school year is less than the previous school year, the authorized representative of the applicant must complete the Certification on pages 11 & 12 of the 2009-2010 *Application for Federal Individuals with Disabilities Education Act (IDEA) Funding for the Education of Students with Disabilities*.**
- The due date of the application materials for federal regular IDEA and ARRA IDEA section 611 and section 619 sub-grant project funds is **July 1, 2009**. This due date will enable SED to review and approve, in a timely manner, application packets which are fully completed and submitted on time. However, districts are encouraged to submit this application packet earlier, if possible, especially if they wish to begin expending IDEA funds as of July 1, 2009. **Please note:** in accordance with federal

rules, a local educational agency (LEA) may not obligate funds for a proposed federal grant project until the Application form and budget documents have been received by the Department in a substantially approvable form.

- LEAs are defined as public school districts, Special Act School Districts, State-Operated Schools and State agencies.
- Each of the four FS-10s must have a *Start Date* of **7/01/09** and a Project Funding *End Date* of **6/30/10** entered in the spaces provided on **page 1** and the **budget summary page**.
- As a condition for receipt of 2008-2009 and subsequent year federal funds, all applicants must have submitted the latest required special education data collection reports, as well as all other requests for data and information to the Strategic Evaluation Data Collection, Analysis and Reporting (SEDCAR) Unit or other units within the Department in the appropriate methods as determined by SED, which, beginning in the 2007-2008 school year, now includes the submission of student-specific Special Education data by LEAs, Special Act school districts, private schools that provide educational services to students pursuant to Article 81 and selected State agencies through the **Student Information Repository System (SIRS)**. For more information pertaining to this new reporting system, please go to the following web site: <http://www.emsc.nysed.gov/irts/SIRS/home.shtml>

B) LEA Responsibilities Pertaining to Approved Special Education Programs (ASEPs)

- As a condition for receipt of 2009-2010 IDEA, Part B funds, the chief school/administrative officer of an LEA must check off whether the LEA proposes to provide its required allocation of funds to ASEPs serving its students with disabilities ages 3-21 under NYS §4410-b using IDEA, Part B or local district funds on p. 11 of the application.¹
- **PLEASE NOTE THAT ALL VENDOR FUNDS DUE TO ASEPS AND CHARTER SCHOOLS AND THE FEDERAL PROPORTIONATE SHARE OF FUNDS THE LEA RECEIVES FOR PARENTALLY PLACED STUDENTS WITH DISABILITIES MUST BE FUNDED THROUGH REGULAR IDEA SECTION 611 AND SECTION 619 FUNDS. ARRA FUNDS SHOULD NOT BE USED FOR THESE PURPOSES. HOWEVER, PLEASE NOTE THAT THE AMOUNT ALLOCATED FOR ASEPS AND THE FEDERAL PROPORTIONATE SHARE FOR PARENTALLY PLACED STUDENTS WILL BE FORMULATED BASED ON THE TOTAL AMOUNT OF REGULAR AND ARRA IDEA ALLOCATIONS THE LEA RECEIVES.**
- Pursuant to NYS §4410-b of the Laws of 2005 (NYS §4410-b), LEAs will be required to disburse funds to ASEPs in which students with disabilities were placed on October 1, 2008. To assist LEAs in calculating the appropriate amounts due to ASEPs under NYS §4410-b, a worksheet is available under **ASEP Worksheets** on the SED/VESID web site at: www.vesid.nysed.gov/spedfin/. The SEDCAR report to calculate the minimum per student vendor funding is available under **Federal IDEA, Part B Allocations** on the same web site. Appropriate SEDCAR forms must be on file from the ASEPs. Upon receipt of SEDCAR-1 forms, LEAs will also provide vendor funding under NYS §4410-b to approved out-of-state private schools if the LEA was the last school district of residence for students with disabilities placed in out-of-state approved private schools by the courts (Article 81).

¹ In certain instances when an LEA did not have any 3-21 year-old students with disabilities attending ASEPs on October 1, 2008, this Certification is not applicable and the third box of this Certification (**Not Applicable**) should be checked on page 11 of the *Application* form.

- In accordance with Chapter 437 the Laws of 2005, LEAs must pay one-third of their calculated section 619 and section 611 per student vendor funding to ASEPs which submitted SEDCAR-1 forms for preschool students with a disability provided related services only. Exception: Any municipality which operated an approved special education itinerant services (SEIS) program prior to July 1, 2003 which submitted SEDCAR-1 forms for preschool students with a disability provided related services only is eligible for a full (100%) section 611 and section 619 per student vendor funding amount for each child. Additional assistance in calculating the full and one-third per student vendor funding amounts for the section 611 and section 619 sub-grants is available under ASEP Worksheets on the SED/VESID web site indicated above.
- LEAs must pay vendor funding to ASEPs under NYS §4410-b in an amount equal to their proportional share of federal funds allocated to the LEA, based on the number of students with disabilities who were served in ASEPs on October 1, 2008, as if the LEA had received the section 611 funds and/or section 619 funds on September 1, 2008. Payment of funding to ASEPs with IDEA, Part B, regular or local district funds must begin within 30 calendar days of September 1, 2009, that is, by October 1, 2009.
- LEAs should request each ASEP it has a vendor relationship with to submit a budget describing the services the LEA is purchasing from the ASEP pertaining to the education of students with disabilities ages 3-21 attending the ASEP and regular reports on expenditures.
- LEAs that use IDEA, Part B section 611 and/or section 619 funds to make payments to ASEPs under NYS §4410-b are required to enter into a legal agreement with each ASEP it has students with disabilities between the ages of 3-21 attending on or before October 1, 2008 and with which it had a vendor relationship. The legal agreement between the LEA and ASEP must contain, but is not limited to, the following requirements of the ASEP:
 - ✓ The submission of a periodic and final expenditure report to the LEA delineating the manner in which the ASEP spent the vendor funds it received from the LEA and the expenditures.

C. Other Important Highlights Regarding IDEA ARRA funds for LEAs

- IDEA, Part B **ARRA** section 611 and ARRA section 619 funds for 2009-2010 will be provided in one separate allocation available on July 1, 2009. Funds which are not obligated by June 30, 2010 may be carried over to the 2010-2011 school year. **Please note: Each LEA must obligate all IDEA Part B ARRA section 611 and ARRA section 619 funds received for the 2009-2010 and 2010-2011 school years no later than September 30, 2011 to avoid forfeiture of these funds.**² For more guidance and information regarding the use of these funds, please refer to pages 15-16 of the booklet in the second part of this memorandum entitled Policies and Procedures Governing the Distribution and Use of IDEA, Part B Federal Assistance for the Education of Students with Disabilities and the U.S. Education Department guidance documents available to school district personnel at the following web site: <http://www.ed.gov/policy/gen/leg/recovery/index.html>.
- The American Recovery and Reinvestment Act of 2009 requires that all primary grantees and their subgrantees create and/or validate existing Central Contractor Registration (CCR) and Data Universal Numbering System (DUNS) registration data to be eligible for ARRA funds. New York State and the New York State Education Department are primary grantees and **LEAs receiving grants from the Department are subgrantees**. LEAs anticipating the receipt of IDEA ARRA grant funds must take immediate steps to comply with this requirement. Additional information about the CCR and DUNS

² For technical assistance regarding the definitions of the obligation of federal funds for different types of expenditures, please refer to the chart provided on p. 20 of the second portion of this memorandum.

can be found at http://www.grants.gov/applicants/applicant_faqs.jsp and On-line registration can be done at: <http://www.ccr.gov/>.

- 2009-2010 IDEA regular and IDEA ARRA section 611 and section 619 LEA allocations will be posted separately on the SED/VESID web site at: <http://www.vesid.nysed.gov/spedfin/>

LEAs which receive ARRA funds will be required to report quarterly, on time, certain standard data elements pertaining to the use of these funds in a manner to be prescribed by the State at a later date.

Other Highlights Regarding the Permissible Use of IDEA, Part B funding

- An LEA may use 2009-2010 regular IDEA and/or ARRA IDEA funds to purchase appropriate technology for recordkeeping, data collection and related case management activities of teachers and related service personnel providing services to students with a disability as needed.
- LEAs are now required to provide both regular IDEA and ARRA IDEA funding³ for all parentally placed students with disabilities who attend non-Department-approved private schools, including religious schools, located in the LEA regardless of whether the student resides within the LEA. For more information pertaining to this requirement of IDEA, please refer to the September 2007 guidance memorandum from James P. DeLorenzo, VESID's Statewide Coordinator for Special Education at the following web site link: <http://www.vesid.nysed.gov/specialed/publications/policy/nonpublic907.htm>. To view the LEA's federal proportionate share of section 619 and/or section 611 funds the LEA received for the 2009-2010 school year, please go to: <http://www.vesid.nysed.gov/sedcar/federal.htm>. **As previously indicated, this funding should be paid for out of the regular IDEA allocations but must reflect the total appropriate compensation based on both regular and ARRA IDEA funds.**
- IDEA permits **eligible** LEAs whose 2009-2010 section 611 final allocation exceeds the allocation amount for section 611 it received in 2008-2009 to offset a portion of their maintenance of local tax effort (MOE) to carry out activities authorized under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), such as services for children in grades K-12 who are at risk of school failure without additional support. **To be eligible, an LEA must not have been identified for 2009-2010 by the State Education Department as:**
 - **An LEA in need of assistance;**
 - **An LEA in need of intervention;**
 - **An LEA substantially non-compliant with the IDEA; and/or**
 - **An LEA having significant disproportionality due to over-representation by race/ethnicity in the identification, classification and/or placement of students with disabilities and/or in the long-term suspension of students with disabilities in particular race/ethnic groups.**

³ The federal proportionate share for services for students parentally placed in a non-Department approved private school will be formulated to include the regular IDEA Part B allocations plus IDEA ARRA funds. **This total calculated amount must also be encumbered only in the IDEA regular section 611 and, when applicable, section 619 sub-grants in a similar manner as the ASEP vendor funds.** The federal proportionate share for each parentally placed student with a disability and the total amounts of 2009-2010 federal IDEA section 619 and/or section 611 funds each LEA will receive may be found at the following web site location: <http://www.vesid.nysed.gov/sedcar/federal.htm>

Please refer to pages 11-15 of the booklet in the second part of this memorandum entitled Policies and Procedures Governing the Distribution and Use of IDEA, Part B Federal Assistance for the Education of Students with Disabilities for further information and guidance relating to this offset provision and the permissive use of IDEA Part B section 611 and section 619 sub-grant funds, including ARRA funds, directly below.

- IDEA, Part B permits LEAs to use up to 15% of its total 2009-2010 section 611 and section 619 final allocations, including ARRA funds to develop and implement coordinated early intervening services activities. Please note: If an LEA proposes to use section 619 funds for up to a maximum allowable 15% of its total allocation, including ARRA funds, the proposed early intervening services must be limited to direct or indirect services to kindergarten students only who are not yet identified as eligible for special education and related services.
- Funds proposed for remodeling under Minor Remodeling: Code 30 of the *Proposed Budget for a Federal or State Project* (FS-10) is not a permissive use of regular IDEA, Part B funds but may be allowed under IDEA ARRA funds with prior approval of the State Education Department, which will need to be coordinated with the Department's Facilities Planning Office.
- When proposing consultant fees budgeted under Purchased Services: Code 40 of the FS-10, the individual/agency providing each service and the per diem or hourly rates for each must be listed and the hourly/daily rate must be reasonable as determined by the NYS Education Department.
- Proposed expenditures for equipment with a unit cost of less than \$5,000, software, supplies and materials budgeted under Supplies & Materials: Code 45 of the FS-10 must contain a description, unit cost, quantity and individual proposed expenditure.
- Only special education staff, including Certified Teaching Assistants (with the exception of certified reading teachers who provide specially designed reading instruction to students with disabilities) should be listed in Professional Salaries: Code 15 of the FS-10. Teacher Aides should be listed under Support Staff Salaries: Code 16.
- Items with a unit value of **\$5,000** or more and having a useful life of more than one year must be reported as Equipment in Code 20 of the FS-10 for section 611 and/or section 619 sub-grants. For more information on equipment, please go to www.oms.nysed.gov/cafe/ and view *Policy Advisory # 01-05*.
- All public school districts, Special Act School Districts and State agencies have approved maximum restricted indirect cost rates, which may be budgeted under Code 90 of the FS-10 form. **Please note:** Indirect costs may not be claimed on vendor funding to ASEPs, including Article 81 funds pursuant to NYS §4410-b, or for the portion of each sub-contract exceeding \$25,000 listed in Purchased Services: Code 40 of the FS-10.
- IDEA funds may be used to support strategies that will result in improving results for the measurable and rigorous targets identified in SED's *IDEA Part B State Performance Plan, 2005-10* (SPP - revised January 2007).
- Non-educational expenditures such as dinners, shows, movies, etc. are not a permissive use of IDEA, Part B funds of either type and cannot be programmatically approved. All funds must be spent in the most cost effective and efficient manner.
- The application package must be a single submission covering all the federal funding sources mentioned within this memorandum with one contact person.

Follow the directions below to confirm both your district's allocation and anticipated carryover and submit the application and FS-10s for each sub-grant project for the total amount:

- When the LEA submits its application and FS-10s for **regular** IDEA section 611 and section 619 funds, it **MUST** be for the 2009-2010 allocation for each project **PLUS** the anticipated carryover funds remaining from the 2008-2009 school year. Please note: The amount of carryover funds allowed to be budgeted in the subsequent year may not exceed 100% of the prior year's project allocation. Failure to submit the application and FS-10s for the total amount, including carryover funds, will require revisions before any action on the regular section 611 and section 619 FS-10 sub-grants for 2009-2010 will take place.

YOUR AGENCY MUST THEN SUBMIT THE 2008-2009 FS-10 FINAL EXPENDITURE REPORT FOR THE SECTION 611 AND SECTION 619 SUB-GRANT PROJECTS WITHIN 90 DAYS OF THE CLOSE OF THE 2008-2009 PROJECT YEAR. IF SUBMITTED IN A TIMELY FASHION, THE FS-10-F SHORT FORM MAY BE USED. FAILURE TO SUBMIT THESE DOCUMENTS WITHIN THE STATED TIME FRAME MAY RESULT IN THE STOPPING OF PAYMENTS ON ALL FEDERAL AND STATE GRANTS FUNDED THROUGH SED. IN ADDITION, THE OPTION TO USE THE FS-10-F SHORT FORM IS NO LONGER AVAILABLE AND FINAL COST DATA MUST BE SUBMITTED ON THE FS-10-F LONG FORM.

PLEASE NOTE: 2008-2009 PROJECT EXPENDITURES MUST BE REPORTED SEPARATELY FOR 2009-2010 REGULAR IDEA AND ARRA IDEA FUNDS.

To confirm your agency's IDEA, Part B 611 and 619 allocations (Regular and ARRA) for 2009-2010, the status of your Final Expenditure Reports/FS-10-Fs for 2008-2009 and the anticipated carryover balance(s) into 2009-2010, you should review IDEA, Part B Allocation Reports available on Office of Management Services-Grants Finance Unit's web site: <http://www.oms.nysed.gov/cafe/> and:

- Enter the 12 digit BEDS (or agency code) and Click go
- Select 2009-2010 IDEA Allocation Reports; **or**
- If the 12 digit code is not available, select the appropriate county
- Select your agency name
- Select 2009-2010 IDEA Allocation Reports

This information is also available at the VESID Special Education Budget and Finance Unit's web site: <http://www.vesid.nysed.gov/spedfin/>.

Applicants must submit the following to be substantially approvable:

- 1) An original IDEA, Part B section 611 and section 619 application form containing the original signature of the Chief School/Administrative Officer in blue ink, the information regarding 2007-2008, 2008-2009 and current school year's local effort, all assurances including the completed assurance pertaining to NIMAC, the completed Certification Regarding the Payment of Part B Funds to ASEPs and the new Certification pertaining to local effort when an LEA has been unable to maintain its local effort from one school year to the next;
- 2) An original FS-10 for IDEA regular section 611, IDEA ARRA section 611, IDEA regular section 619, and IDEA ARRA section 619 budget, each signed in blue ink plus two additional copies of each budget form with a project *start* date of **7/01/09** and a project *end* date of **6/30/10**.

Mail the above materials to:

Mr. Michael C. Plotzker
New York State Education Department
Office of Vocational and Educational Services for Individuals with Disabilities
Central Office Administrative Support Services Team (COASST)
One Commerce Plaza – Room 1609
Albany, New York 12234

ASSISTANCE

1. For general policies, procedures, and information including carryover funds; contact the VESID Special Education Budget and Finance Unit at (518) 486-4734. If you prefer, you may also e-mail us at vesidbnf@mail.nysed.gov.
2. For information regarding IDEA, Part B program requirements, please contact the VESID Special Education Quality Assurance (SEQA) Regional Office in which your school is located (Please refer to the attached chart on page 8 for information pertaining to each VESID-SEQA regional office).
3. For assistance in completing financial forms (FS-10, FS-10-A, FS-25 and FS-10-F) and/or information on indirect costs, contact the Office of Management Services, Grants Finance Unit at (518) 474-4815, or visit their web site: <http://www.oms.nysed.gov/cafe/>
4. For the LEA's calculated proportionate share of IDEA federal funds for parentally placed students with disabilities in nonpublic schools for 2009-2010 school year, please visit the following website: <http://www.vesid.nysed.gov/sedcar/federal.htm>
5. To view the 2009-2010 IDEA, Part B section 611 and section 619 adjusted total allocation amounts and to calculate the LEA's minimum per student vendor funding amounts due to approved special education providers (ASEPs) which serve preschool or school-age students with disabilities, please go to the following website: <http://eservices.nysed.gov/alloweb/>. If the web site is not yet operational, please continue trying to access it or e-mail your question(s) to us at: vesidbnf@mail.nysed.gov.
6. Approved Special Education Program (ASEP) status – please contact the VESID Special Education Policy unit at (518) 473-2878.
7. For Child Count summaries as reported via the SIRS reporting system, visit the *Pupils with Disabilities* (PD) Data System website: <http://www.vesid.nysed.gov/sedcar/data>
8. For additional guidance regarding American Recovery and Reinvestment Act of 2009 (ARRA) IDEA Part B funding, please go to: <http://www.ed.gov/policy/gen/leg/recovery/index.html>.

**VESID SPECIAL EDUCATION QUALITY ASSURANCE (SEQA)
REGIONAL OFFICES**

James P. DeLorenzo, Statewide SEQA Coordinator (518) 402-3353
 Jacqueline Bumbalo, Upstate SEQA Regional Coordinator (315) 428-3287
 Patricia Shubert, New York City SEQA Regional Coordinator (718) 722-4544
 Daniel H. Johnson, Coordinator, Nondistrict Initiatives (518) 486-6221

<p align="center">WESTERN REGIONAL OFFICE (NYS School for the Blind) NYS Education Department VESID Special Education Quality Assurance 2A Richmond Avenue Batavia, New York 14020 (585) 344-2002</p> <p align="center">Christopher Suriano, Supervisor</p>	<p align="center">EASTERN REGIONAL OFFICE (One Commerce Plaza) NYS Education Department VESID Special Education Quality Assurance Room 1623 – One Commerce Plaza Albany, New York 12234 (518) 486-6366</p> <p align="center">Andrew Jackowski, Supervisor</p>
<p align="center">SYRACUSE REGIONAL OFFICE</p> <p align="center">NYS Education Department VESID Special Education Quality Assurance State Tower Building 109 S. Warren Street, Suite 320 Syracuse, NY 13202 (315) 476-5081</p> <p align="center">Suzanne Jackson, Supervisor</p>	<p align="center">LONG ISLAND REGIONAL OFFICE (Western Suffolk BOCES) NYS Education Department VESID Special Education Quality Assurance The Kellum Educational Center 887 Kellum Street Lindenhurst, NY 11757 (631) 884-8530</p> <p align="center">Eileen Taylor, Lead Regional Associate</p>
<p align="center">NEW YORK CITY REGIONAL OFFICE NYS Education Department VESID Special Education Quality Assurance 55 Hanson Place Room 545 Brooklyn, NY 11217-1580 (718) 722-4544</p> <p align="center">Belinda Johnson, Supervisor Richard Governale, Supervisor</p>	<p align="center">HUDSON VALLEY REGIONAL OFFICE (Putnam/N. Westchester BOCES) NYS Education Department VESID Special Education Quality Assurance 1950 Edgewater Street Yorktown Heights, NY 10598 (914) 245-0010</p> <p align="center">Christine Efnor, Supervisor</p>
<p align="center">NON-DISTRICT UNIT (One Commerce Plaza) NYS Education Department VESID Special Education Quality Assurance Room 1623 – One Commerce Plaza Albany, New York 12234 (518) 486-6211</p> <p align="center">Eileen Borden, Supervisor</p>	

**POLICIES AND PROCEDURES GOVERNING THE DISTRIBUTION AND USE OF
IDEA, PART B FEDERAL ASSISTANCE FOR THE EDUCATION OF STUDENTS
WITH DISABILITIES AND APPLICATION BOOKLET**

<u>Contents</u>	<u>Page</u>
<u>Overview of New York State’s Sub-Grant Programs:</u>	10-15
I. The Section 611 Sub-Grant Program	10
II. The Section 619 Sub-Grant Program	10
III. Use of Part B Funds	10
IV. Approved Special Education Programs	14
V. Use of ARRA Funds	15
VI. Charter Schools.....	16
VII. Additional Information Pertaining to the Use of Part B Funds.....	17
VIII. § 76.707 (Edgar) Requirements pertaining obligating funds.....	20
IX. Reduced MOE/Early Intervening Services Worksheet/Expenditure Reports	21-28

Page

New York State Policy Governing the Administration of Federal Sub-Grant Programs: 29 - 36

Allocation of Sub-Grant Program Funds	29
Section 611 Allocations to Local Education Agencies.....	29
Section 619 Allocations to Local Education Agencies.....	29
Applicant Eligibility.....	29
Reallocation of Funds in the Absence of Required Applications.....	30
Disapproval – Applicant Recourse	30
Technical Assistance for FS-10 and FS-10-A Budget Forms.....	30

<u>Contents</u>	<u>Page</u>
State Procedures for the Disbursement of Federal IDEA, Part B Flow-Through Vendor Funding to Approved Special Education Programs (ASEPs) for 2009-10 and LEA/ASEP Calendar of Events for 2009-2010:	33-37
I. 2009-2010 IDEA, Part B Allocations to LEAs and Vendor Funding to ASEPs.....	34
Vendor Funding to ASEPs.....	34
Vendor Funding Requirements.....	35
SED Web Site Regarding IDEA, Part B Allocations	38
SED Information Contacts	38

OVERVIEW OF NEW YORK STATE'S FEDERAL SUB-GRANT PROGRAMS FOR THE EDUCATION OF STUDENTS WITH DISABILITIES

I. The Section 611 Sub-Grant Program

The Section 611 Sub-Grant Program is authorized under Part B of the Individuals with Disabilities Education Act (IDEA, Part B). Under this program for 2009-2010, New York State receives the amount it received for 1999-2000 as a base allocation. Eighty-five percent (85%) of any increase in the national appropriation is distributed to states based on their relative population of children 3 through 21, while fifteen percent (15%) is distributed based on the relative population of all children aged 3 through 21 living in poverty. The administration of the program is governed by section 611(a)(2)(A) of the Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446).

II. The Section 619 Sub-Grant Program

The Section 619 Sub-Grant Program is authorized under IDEA, Part B. Under this program for 2009-2010, New York State receives a second grant award each year. Based on the total available for allocation to States, each State receives the amount it received for 1997-98. Eighty-five percent (85%) of any increase in the national appropriation is distributed to states based on their relative population of children aged 3 through 5, while fifteen percent (15%) is distributed based on the relative population of all children aged 3 through 5 living in poverty. The administration of this program is governed by section 619(c) of the Individuals with Disabilities Education Improvement Act of 2004 (Public Law 108-446).

III. Use of Funds Under Part B of the Individuals with Disabilities Education Act – Section 1413(a)(2)

Amounts provided to the LEA shall be expended in accordance with the applicable provisions of 20 U.S.C. 1400 et. seq. and:

- Shall be used only to pay the excess costs of providing special education programs and services to students with disabilities;
- Shall be used to supplement State, local and other federal funds and not to supplant such funds; and include the following:
 - A. Exception to Maintenance of Effort** – An LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to the following:
 - The voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel [34 CFR §300.204(a)];
 - A decrease in the enrollment of students with disabilities [34 CFR §300.204(b)];
 - The termination of the obligation of the LEA, consistent with IDEA, Part B, to provide a special education program and services to a particular student with a disability that is an exceptionally costly program, as determined by the SEA, because the student has left the jurisdiction of the agency; has reached the age at which the obligation of the LEA to provide a free appropriate public education (FAPE) to the student has terminated; or no longer needs a special education program and services [34 CFR §300.204(c)]; and

- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities [34 CFR §300.204(d)].

B. Adjustment to local fiscal effort in certain fiscal years – For any fiscal year for which the **section 611** allocation received by the LEA under IDEA, Part B exceeds the amount it received the previous fiscal year, the LEA may, **if eligible**, reduce the level of expenditures for local maintenance of effort (MOE) for activities related to the Elementary and Secondary Education Act (ESEA) of 1965 as amended by the No Child Left Behind Act of 2001 (NCLB) by not more than 50% of that excess amount, provided that it uses an amount of local funds equal to the reduction in expenditures to carry out activities authorized under the ESEA, such as services for children in grades K-12 who are at risk of school failure without additional support. Please note that the amount calculated for the increase of the IDEA Part B section 611 funds as illustrated below may only be used for this purpose in either the regular IDEA or ARRA IDEA **section 611** sub-grant [34 CFR §300.205(a)]. **DECREASING LOCAL EFFORT FOR THE PURPOSE OF IDEA DOES NOT MEAN SPENDING A PORTION OF IDEA FUNDS ON ESEA ACTIVITIES. ALL IDEA FUNDS BE SPENT ON SPECIAL EDUCATION SERVICES. IT MEANS A PROPER REDUCTION OF MOE AS LONG AS THE ABOVE CRITERIA HAVE BEEN MET.**

Example 1

<u>Eligible</u> LEA Allocation	2008-2009 IDEA Part B	2009-2010 IDEA Part B <u>Including</u> ARRA	Increase	Maximum 50% Calculated Amount
Section 611	\$250,000	\$450,000	\$200,000	\$100,000
Total amount of funds an <u>eligible</u> LEA may offset its local effort →				\$100,000

If an eligible LEA proposes to use IDEA, Part B section 611 funds, including ARRA funds, to offset an LEA’s expenditure of MOE for activities authorized under the ESEA as amended by the NCLB and proposes to use IDEA, Part B section 611 funds for the purpose of implementing and providing comprehensive coordinated early intervening services (CEIS) activities as described on page 12 of this memorandum simultaneously during the same school year, the total sum of each use of these funds must be counted together as one sum.⁴

Example 2 (Using the LEA information from Example 1 for a district using 15% for CEIS)

LEA Allocation		
2009-2010 IDEA Part B Allocations <u>including</u> ARRA	Maximum Amount for CEIS Activities	Total Amount an LEA May Reduce its MOE for ESEA Activities Paid for with Local Funds
Section 611	\$450,000	\$24,250
Section 619	\$55,000	NA

⁴ In accordance with 34 CFR §300.205(d), the amount of funds expended by an LEA for the provision of CEIS activities under §300.226 shall count toward the maximum amount the LEA may reduce the district’s maintenance of local tax effort for activities under the ESEA as amended by the NCLB as indicated in §300.205(a) [Each proposed expenditure must be added together and the maximum total of both proposed expenditures may not exceed either 15% of the district’s 2008-2009 IDEA, Part B section 611 allocation, including IDEA ARRA funds, or the calculated 50% difference between the 2008-2009 and 2007-2008 IDEA Part B section 611 allocations, whichever is greater].

Therefore, this LEA may obligate up to \$67,500 of its 2009-2010 section 611 IDEA Part B sub-grant(s) for CEIS activities in the regular Part B section 611 and/or the section 611 ARRA sub-grant projects and may reduce its MOE by \$24,250 for activities related to ESEA as amended by NCLB **using local district effort funds, not IDEA.**

In addition, this LEA may obligate up to \$8,250 of its 2009-2010 section **619 IDEA** Part B sub-grant(s) for CEIS activities related to direct or indirect services to **kindergarten children** in the regular IDEA Part B section 619 project and/or the IDEA Part B section 619 ARRA sub-grant project.

It may also choose to use the entire amount of \$100,000 calculated from the increase in IDEA Part B section 611 regular and IDEA ARRA funds to reduce its MOE for activities related to ESEA as amended by NCLB **using local district effort funds, not IDEA** if it chooses not to avail itself of the permissive use of any IDEA section 611 and section 619 funds for the development and implementation of CEIS activities. It may also choose to use some other combination of these two optional uses of IDEA funds to not exceed the greater calculated amount of \$100,000.⁵

Optional: If an LEA proposes to avail itself of the adjustment to local tax effort for activities related to ESEA as amended by NCLB as indicated above in previous examples, and/or it also opts to use up to 15% of its 2009-2010 regular IDEA and ARRA IDEA allocations for the purpose of developing and implementing CEIS activities, it may combine the regular IDEA and ARRA IDEA allocation amounts for section 611 and section 619 together to calculate the maximum 15% calculation of the **total** IDEA Part B amount of funds it receives for the 2009-2010 school year for CEIS activities and then use the total 15% calculated amount of funds from one single funding stream, such as the regular IDEA section 611 sub-grant or the ARRA IDEA section 611 sub-grant (see Example 3 below). The appropriate worksheets and expenditure reports found on page **21-28** of this memorandum must be attached to the sub-grant from whichever funding stream it chooses to obligate funds for these purposes.

Example 3 (Again, using the LEA information from Example 1)

LEA Allocation			
2009-2010 IDEA Part B Allocations including ARRA		Maximum Amount for CEIS Activities an LEA may encumber from a single funding stream	Amount an LEA May Reduce its MOE for ESEA Activities
Section 611	\$450,000	\$75,750	\$24,250
Section 619	\$55,000		NA
Total amount of funds the LEA may offset its local effort →			\$24,250

Therefore, in this example, this same LEA may obligate up to \$75,750 of its 2009-2010 regular IDEA or ARRA IDEA section 611 sub-grant for CEIS activities and reduce its MOE for the 2009-2010 school year by \$24,250 by using this amount for activities related to the ESEA as amended by NCLB using **local funds, not IDEA.**

⁵Pursuant to 34 CFR §§300.205(d) and 300.226(a), if an eligible LEA proposes to use 2009-2010 IDEA, Part B section 611 funds to reduce the district's maintenance of local tax effort for activities related to ESEA as amended by NCLB and for CEIS activities, these proposed expenditures must be used in combination with one another dollar for dollar. The maximum total of both of these proposed expenditures may not exceed 15% of the district's 2009-2010 IDEA, Part B section 611 final allocations (including ARRA funds) or 50% of the increase between the 2009-2010 IDEA, Part B section 611 final allocation, including IDEA ARRA funds and the 2008-2009 IDEA, Part B section 611 final allocation, whichever is greater.

Districts should take into consideration the reporting requirements for all CEIS expenditures when determining which methodology to use to fund these types of activities.

For more information regarding ARRA IDEA funds, please refer to pages 15-16 in this section of the memorandum.

Please note the following:

- Pursuant to §616(f) of the Act and 34 CFR §300.205(c), if the LEA has received notification from the Department that it is an LEA in need of assistance, an LEA in need of intervention or has been identified for disproportionality in the identification, classification and/or placement of students with disabilities and/or in the long-term suspension of students with disabilities in particular race/ethnic groups for the 2009-2010 school year, it is **prohibited** from using IDEA Part B section 611 funds, including ARRA funds, for activities related to the ESEA as amended by the NCLB to offset a portion of their maintenance of local tax effort, and;
 - LEAs that propose to use section 611 funds including ARRA funds, to offset the district's expenditure of local effort for activities authorized under ESEA **must** complete the appropriate Maintenance of Local Tax Effort and Early Intervening Services Worksheet & Expenditure Report located on pages 21-22 of this memorandum and attach both pages to the original and two copies to either the IDEA Part B regular or ARRA section 611 FS-10.
- C. Schoolwide Programs under the ESEA** - An LEA may use funds under this Part to carry out a schoolwide program under section 1114 of the ESEA of 1965. The maximum amount of funds an LEA may use in any program of this type can be calculated by multiplying the total 2009-2010 allocations under this Part by the number of children with disabilities participating in the schoolwide program divided by the total number of children ages with disabilities the district reported to SED in October and December 2008 [34 CFR §300.206].
- D. Permissive Use of IDEA Part B Funds** - Funds provided to an LEA can be used for the following:
- **Services and aids that also benefit nondisabled students** - for the costs of special education programs and services provided in a regular class or other education-related setting to a student with a disability in accordance with their individualized education program (IEP), even if one or more nondisabled children benefit from these services [34 CFR §300.208(a)(1)].
 - **Early Intervening Services Funds** - up to 15 percent of the LEA's 2009-2010 IDEA, Part B section 611 final allocation including ARRA funds, may be used to develop and implement comprehensive coordinated early intervening services (CEIS) activities for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3). In addition, up to 15 percent of the LEA's 2009-2010 IDEA, Part B section 619 final allocation including ARRA funds may be used to develop and implement CEIS activities for students in kindergarten only, provided that the students provided with direct or indirect CEIS activities are children not yet identified as eligible for special education or related services but who need additional academic and behavioral support to succeed in a general education environment [34 CFR §300.208(a)(2)].

Pursuant to 34 CFR §300.226(b)(1) & (2), such activities could include:

- Professional development for teachers and other school staff to enable such personnel to deliver scientifically-based academic instruction, including behavioral interventions and scientifically-based literacy instruction and, where appropriate, instruction on the use of adaptive and instructional software; and

- Providing educational and behavioral evaluations, services, and supports, including scientifically-based literacy instruction.

Please note: LEAs which propose to use up to 15% of the 2009-2010 IDEA, Part B section 611 and/or section 619 allocations, including ARRA funds, for CEIS activities as previously described **must** complete the appropriate Maintenance of Local Tax Effort and Early Intervening Services Worksheet & Expenditure Report located on pages **21-24** of this memorandum and attach both pages to the original and two copies to the appropriate section 619 and/or section 611 FS-10 proposed budgets prior to submission to SED.

- Pursuant to §300.646(b)(2), if the Department has notified the LEA that it has been identified for disproportionality due to over-representation by race/ethnicity in the identification, classification and/or placement of students with disabilities and/or in the long-term suspension of students with disabilities in particular race/ethnic groups, it is **required** to:
 - ✓ Reserve and expend 15% of the IDEA, Part B **section 611 and section 619** allocations including ARRA funds for the development and implementation of comprehensive early intervening services activities as described above for students in kindergarten through grade 12 for section 611 who particularly, but not exclusively, were significantly over-identified and for section 619, students in kindergarten particularly, but again not exclusively, were also significantly over-identified; and
 - ✓ Complete the appropriate Maintenance of Local Tax Effort and Early Intervening Services Worksheet & Expenditure Reports located on located on pages **25-28** of this memorandum in the same manner indicated above and attach them to the appropriate FS-10 sub-grant(s).

Each LEA which opts to use up to 15% of its total 2009-2010 IDEA Part B section 611 and/or section 619 allocations including ARRA funds or is notified by SED that it has been identified for disproportionality as indicated above and is directed to use 15% of its 2009-2010 IDEA, Part B section 611 and section 619 allocations, including ARRA funds, to develop, implement and maintain CEIS activities is required to annually report to SED on the students provided these services as part of the reporting elements of the Department's Student Information Repository System (SIRS). In addition, LEAs which propose to use ARRA funds for this purpose will be required to report quarterly specific data elements to be prescribed by the State at a later date.

Purchasing appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that is needed for the implementation of such case management activities [**34 CFR §300.208(b)**].

Approved Special Education Programs (ASEPs) – NYS §4410-b requires LEAs to disburse section 611 and section 619 funds or local district funds to those ASEPs which served one or more students with disabilities, placed by the LEA during the prior school year. In order to be eligible for vendor funding through this procedure, an ASEP must have served one or more students with disabilities on October 1, 2008 pursuant to Article 89 (placed by a CSE/CPSE) or Article 81 (placed through the courts or State agencies); and a SEDCAR-1 form must be received by the LEA (for Article 89 placements) and for students with disabilities placed by the courts in approved out of state private schools for whom the LEA was the last school district of residence, a SEDCAR-2 form must have been received by SED and the designated LEA through whom the ASEPs which provide services to students pursuant to Article 81 and who will receive federal supplemental funds (for in-state Article 81 students) by March 1, 2009. **Please note:** LEAs **designated to receive Article 81 funds for 2009-2010 and 2010-2011 will receive these funds as part of the IDEA regular and IDEA ARRA section 611 final allocations. Therefore, an LEA that receives section 611 Article 81 funds must disburse such funds to the appropriate**

ASEP(s) and list these proposed expenditures in the IDEA regular and IDEA ARRA section 611 FS-10 sub-grants within Purchased Services: Code 40. Local funds cannot be used for this purpose. ALL OTHER ASEP FUNDS MUST BE PAID OUT OF THE REGULAR IDEA SECTION 611 AND SECTION 619 SUB-GRANTS, NOT ARRA IDEA FUNDS, ALTHOUGH THE CALCULATION OF PER STUDENT VENDOR FUNDING MUST INCLUDE BOTH FUNDING SOURCES.

V. Use of ARRA IDEA Funds:

ARRA IDEA funds must be used consistently with the current IDEA, Part B statutory and regulatory requirements and applicable requirements in the *General Education Provisions Act (GEPA)* and the Education Department General Administrative Regulations (EDGAR). An LEA must use IDEA ARRA funds only for the excess costs of providing special education and related services to children with disabilities, except where IDEA specifically provides otherwise.

ARRA IDEA funds constitute a large one-time increment in IDEA, Part B funding available to LEAs by the State in equal amounts for the 2009-2010 and 2010-2011 school years. These funds offer LEAs a unique opportunity to improve teaching and learning and results for children with disabilities. Generally, it is recommended that these funds should be used for short-term investments that have the potential for long-term benefits, rather than for expenditures the LEAs may not be able to sustain once IDEA ARRA funds are expended. **ARRA IDEA funds must be obligated no later than September 30, 2011.** Please refer to the chart on p. 20 for further information pertaining to the specific definition of “obligation” for specific types of expenditures.

Some possible uses of these limited-term ARRA IDEA funds allowable under IDEA which are aligned with the core reform goals for these funds are indicated below:

- To purchase state-of-the art assistive technology devices for students with disabilities and to provide training in their use to enhance these students’ access to the general curriculum.
- To provide intensive district-wide professional development for special education and regular education teachers that focuses on scaling-up, through replication, proven and innovative evidence-based school-wide strategies in reading, math, writing and science, and positive behavioral supports to improve outcomes for students with disabilities.

For example, LEAs may choose to expend ARRA funds to provide additional training to teachers and others to diminish the disproportionate identification of English Language Learners as eligible for special education and to identify differences between linguistic and cognitive learning problems.

To that end, the New York State Education Department urges LEAs to provide any proposed professional development to teachers on site whenever possible to avoid unnecessary travel expenses. However, if an LEA proposes to provide staff development activities that require travel, it is urged to use fiscal prudence in arranging travel arrangements. For example, travel by airplane only if necessary and should not be first class and overnight accommodations and meals should, whenever possible, be in accordance with current government rates. Travel is limited to the continental United States and international travel is prohibited.

- To develop or expand the capacity to collect and use data to improve teaching and learning.
- To hire transition coordinators to work with employers in the community to develop job placements for youths with disabilities.

- To expand the availability and range of inclusive placement options for preschoolers with disabilities by developing the capacity of public and private preschool programs to serve these children.

Please note the following: If an LEA proposes to utilize ARRA IDEA funds for this purpose by developing a tuition-based preschool special education program, it must follow established preschool application procedures, which include submission of an application to SED and the documentation of regional need for such a program in the geographic region the LEA is located and must also be committed to continuing the operation of such program(s) at the tuition rate established by the New York State Education Department's Rate Setting Unit after the ARRA IDEA funds are no longer available.

In addition, please note that all applicable State laws and regulations pertaining to the education of students with disabilities between the ages of 3-21 must be adhered to in addition to the adherence to the applicable federal rules, law and regulations governing the use of these funds, including additional reports which will be required in a manner prescribed by the Commissioner of Education.

VI. Charter Schools

Charter Schools are required to adhere to the provisions of the New York Charter Schools Act of 1998 in Part 119 of the Regulations of the Commissioner of Education. Charter Schools must also adhere to requirements under Section 76.788 of the Education Department General Administrative Regulations (EDGAR). Also applicable to Charter Schools are the requirements prescribed in Individuals With Disabilities Education Act (IDEA, Part B), including provisions related to teacher preparation and certification and the completion of special education data reports.

In accordance with federal regulations, at least 120 days before the date a charter school is scheduled to open or significantly expand its enrollment, the charter school must provide the LEAs with notice to that effect.

Per student vendor funding under IDEA, Part B for regular IDEA section 611 and section 619 and ARRA IDEA section 611 and section 619 is available for special education programs and services for students with disabilities. Section 611 funds are available for students with disabilities 3-21 (depending on the situation described below) and section 619 funds are available for students with disabilities ages 3-5 (depending on the situations described below).

Therefore, students ages 3-5 are eligible to receive funds under both sections. The per student vendor funding amount is determined for both section 611 and section 619 by each local educational agency (local school district) and for the 2009-2010 and 2010-2011 school years, will include the additional federal proportionate share of ARRA IDEA funds. Charter Schools **DO NOT** have to submit SEDCAR-1 forms to receive their funds. **Appropriate payments to Charter Schools should be made out of the Regular IDEA 611 and 619 grants; however, the total must be calculated using both regular IDEA section 611 and section 619 and ARRA IDEA section 611 and section 619 funds.**

In addition, please note that the LEA is required to serve children with disabilities attending charter schools in the same manner it serves children with disabilities in its other schools, including providing supplementary and related services on site to the same extent to which it has a policy or practice of providing such services on the site of its other public schools [34 CFR §300.241(a)].

Charter Schools Opening or Significantly Expanding Enrollment On Or Before November 1st Of An Academic Year

Charter schools which open or significantly expand their enrollment on or before November 1st of an academic year must report their October 1st child counts of resident students with disabilities enrolled in the charter school to the student's school district of residence as well as SED. The school district of residence must include the students with disabilities in charter schools in their PD count submitted to the SED for students who are provided with and services on October 1st of a given school year. The school district of residence must calculate the amount due to the charter school by taking the number of students reported as of October 1st, who were in the charter school and receiving special education services in a charter school and multiply that by the per student amount calculated under both section 611 and section 619 as appropriate by each local school district of residence. The charter school must receive the full amount of funds due within five months of the date the charter school opens or significantly expands its enrollment. The district will need to determine the portion of services delivered by the district of residence and the portion delivered by the charter school. The charter school will get a pro-rated amount based upon the portion of services the child receives from the charter school and full-time equivalent (FTE) enrollment.

For Charter Schools Opening Or Significantly Expanding Enrollment After November 1st But Before February 1st Of An Academic Year

For charter schools opening or significantly expanding enrollment after November 1st but before February 1st of an academic year, the charter school must receive a pro-rata portion of the funds for which the charter school is eligible on or before the date the LEA allocates IDEA, PART B funds to schools for the succeeding school year. If the charter school opens after November 1st and before December 1st, it should report the December 1st child counts to the students' school districts of residence as described above, and districts will need to allocate monies as described above. However, for charter schools that open after December 1st or that significantly expand their enrollment for the time period December 2nd – January 31st, charter schools must report these enrollment figures to the students' school districts of residence and receive a pro-rata portion of funds within five months of the date the charter school opens or significantly expands its enrollment. The district, in calculating the amount due the charter school, will need to consider the FTE for the child for that year, and the portion of the special education services delivered by the charter school and by the district of residence. The charter school would only be entitled to the per-child amount pro-rated based upon the portion of special education services delivered by the charter school, and pro-rated based upon FTE enrollment.

School districts should note that when calculating the amount for charter schools (as in the prior two paragraphs) and determining the amount based upon the proportion of services provided by the charter schools, this is the only time school districts allocate federal funds based upon the proportion of the services delivered. Payments to ASEPs is governed by NYS §4410-b, which does not apply to charter schools and provides for sub-allocations on a per-capita basis.

For Charter Schools That Open or Significantly Expand Enrollment after February 1st of an Academic Year

The students' district of residence may, at its discretion, provide the charter school with a pro-rata portion of the funds, based upon the FTE enrollment and portion of special education services delivered by the charter school. If provided, this pro-rata portion of the funds should be disbursed within five months of the date the charter school opens or significantly expands its enrollment.

VII. Additional Information Pertaining to the Use of IDEA, Part B Funds:

E. Public and Private Insurance

- If a public agency is unable to obtain parental consent to use the parent's private insurance, or public insurance when the parent would incur a cost for a specified service required under IDEA, Part B, to ensure a free, appropriate public education (FAPE), the local educational agency may use its Part B funds to pay for this service [34 CFR §300.154 (f)(1)].
- To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the LEA may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts) [34 CFR §300.154 (f)(2)].
- Proceeds from public or private insurance will not be treated as program income for purposes of 34 CFR 80.25 [34 CFR §300.154 (g)(1)].
- If an LEA spends reimbursement from federal funds (e.g., Medicaid) for services under this Part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in current or proposed IDEA regulations [34 CFR §300.154 (g)(2)].

F. Attorney's Fees - Funds under IDEA, Part B may not be used to pay attorney fees or costs of a party related to an action or proceeding brought about under §615 of the Act and implementing federal regulations [34 CFR §300.517(b)].

G. Expenditures for Children with Disabilities Parentally Placed In Nonpublic Schools – Every school year, each public school district must expend a *proportionate*⁶ amount of its IDEA, Part B funds on special education services to students with disabilities parentally placed in nonpublic elementary and secondary schools in their district:

- For school-age children, an amount that is the same proportion of the LEA's total sub-grant under section 611 of IDEA, Part B (Regular and ARRA) as the number of nonpublic school-age children with disabilities residing in its jurisdiction is to the total number of school-age children with disabilities in its jurisdiction [34 CFR §300.133(a)(1)]; **Total must be paid under the Regular IDEA 611 grant** and
- For children ages 3 through 5, an amount that is the same proportion of the LEA's total sub-grant under section 619 of IDEA, Part B as the number of nonpublic school children with disabilities ages 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction ages 3 through 5 [CFR §300.133(a)(2)(i)]. **Total must be paid under the Regular IDEA 619 grant.**

For more information, please refer to the September 2007 guidance memorandum from James P. DeLorenzo, VESID's Statewide Coordinator for Special Education at the following web site link:

<http://www.vesid.nysed.gov/specialed/publications/policy/nonpublic907.htm>

⁶ To view the LEA's proportionate share of federal IDEA Part B section 611 and section 619 project funds for the 2009-2010 school year, please go to: <http://www.vesid.nysed.gov/sedcar/federal.htm>

- H. Cost of Transportation** - The cost of transportation necessary for a nonpublic school child to benefit from special education services may be included in calculating whether the LEA has met the requirements delineated above [CFR §300.133(a)(1)];.
- I. Separate Classes Prohibited** - An LEA may not use funds available under section 611 or section 619 of IDEA, Part B for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in nonpublic schools [CFR §300.143].
- J. Requirement that Funds Not Benefit a Nonpublic School**
- An LEA may not use funds provided under section 611 or section 619 of IDEA, Part B to finance the existing level of instruction in a nonpublic school or otherwise benefit the nonpublic school [CFR §300.141(a)]; and
 - The LEA shall use funds provided under IDEA, Part B to meet the special education and related service needs of students enrolled in nonpublic schools located in their district, but not for the needs of a nonpublic school or the general needs of the students enrolled in the nonpublic school [CFR §300.141(b)].
- K. Use of Public School Personnel** - An LEA may use funds available under section 611 and section 619 of IDEA, Part B to make public school personnel available in other than public facilities to the extent necessary to provide special education services for parentally placed children with disabilities attending a non-public school in their district and if those services are not normally provided by the nonpublic school [CFR §300.142].
- L. Requirements Concerning Property, Equipment & Supplies for the Benefit of Nonpublic School Children with Disabilities:**
- A public agency must keep title to and exercise continuing administrative control of all property, equipment and supplies that the public agency acquires with funds under section 611 or section 619 of IDEA, Part B for the benefit of school children with disabilities attending a non-public school in their district [CFR §300.144(a)].
 - The public agency may place equipment and supplies in a nonpublic school for the period of time needed for the program [CFR §300.144(b)].
 - The public agency must ensure that equipment and supplies placed in a nonpublic school are used only for IDEA, Part B purposes and can be removed from the nonpublic school without remodeling the nonpublic school facility [CFR §300.144(c)].
 - The public agency shall remove equipment and supplies from a nonpublic school if the equipment and supplies are no longer needed for IDEA, Part B purposes or removal is necessary to avoid unauthorized use of the equipment and supplies for other than IDEA, Part B purposes [CFR §300.144(d)(1) & (2)].
 - No funds under regular IDEA, Part B may be used for repairs, minor remodeling or construction of nonpublic school facilities [CFR §300.144(e)]. ARRA funds may be used for minor remodeling/construction of public school facilities with prior approval from the NYS Education Department.

VIII. § 76.707 (Edgar) Requirements pertaining to when obligations are made. The following table shows when a subgrantee (LEA) makes obligations for various kinds of property and services:

If the obligation is for—	The obligation is made—
(a) Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services	When the State or subgrantee receives the services.
(f) Travel	When the travel is taken.
(g) Rental of real or personal property	When the State or subgrantee uses the property.
(h) A preagreement cost that was properly approved by the State under the cost principals identified in 34 CFR 74.171 and 80.22.	
[Authority: 20 U.S.C. 1221e-3, 3474, and 6511(a)] [45 FR 22517, Apr. 3, 1980. Redesignated at 45 FR 77368, Nov. 21, 1980, as amended at 55 FR 14817, Apr. 18, 1990; 57 FR 30342, July 8, 1992]	

IX. WORKSHEETS/EXPENDITURE REPORTS FOR USE BY LEAs

ATTACHMENT A (OPTIONAL USE OF FUNDS)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B section 611 (including ARRA Funds)

Early Intervening Services and Maintenance of Local Effort Calculation Worksheet

Please Note: The following form must be filled out and attached to the original FS-10 budget form and two copies if the district proposes to use IDEA funds in either or both of the following instances:

- If eligible,⁷ to reduce the district’s maintenance of local effort for special education under IDEA by the use of up to 50% of the calculated difference between a school district’s *IDEA*, Part B 2009-2010 section 611 and section 619 and 2008-2009 section 611 and section 619 allocations (excluding carryover funds) (**ALL IDEA FUNDS MUST BE USED FOR ACTIVITIES UNDER IDEA**).
 - For the development and provision of comprehensive, coordinated early intervening services (CEIS) for students not identified as needing special education or related services in kindergarten through grade 12 (with an emphasis on students in kindergarten through grade 3) for section 611 through the use of up to 15% of the total 2009-2010 *IDEA*, Part B section 611 allocation, including ARRA funds.
- Use the chart below to calculate the maximum allowable amount the district may lower its maintenance of local effort for special education if eligible as explained in the footnote below:

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>	<u>Column D</u>
2009-2010 <u>Final</u> Allocation for Section 611 <u>Including</u> ARRA Funds	2008-2009 <u>Final</u> Allocations for Section 611	Column A Minus Column B	Maximum Amount an LEA May Reduce its Maintenance of Local Effort [Multiply the amount in Column C by 0.5]
\$	\$	\$	\$

- Use the chart below to calculate the maximum permissible amount the district may use for activities related to comprehensive, coordinated early intervening services:

<u>Column E</u>	<u>Column F</u>
2009-2010 IDEA <u>Final</u> Allocation For Section 611 <u>including</u> ARRA Funds (Same as Column A)	Multiply Column E by 0.15
\$	Total Applicable Amount \$

⁷ Pursuant to 34 CFR §300.205(c), if a state educational agency (SEA) determines that an LEA is unable to establish and maintain programs of free appropriate public education that meet the requirements of §613(a) of the Act or the SEA has taken action against the LEA under §616 of the Act and Subpart F of the Implementing Regulations, the SEA must prohibit the LEA from reducing the level of local expenditures for that fiscal year for activities related to the ESEA of 1965 as amended by NCLB. Therefore, if the State Education Department has notified the LEA that it is an LEA in need of assistance, intervention or has been identified for disproportionality by race/ethnicity in the identification, classification, placement and/or long term suspension of students with disabilities for the 2009-2010 school year, it is **prohibited** from using IDEA funds for this purpose.

ATTACHMENT B (OPTIONAL USE OF FUNDS)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B **section 619** (Including ARRA Funds)

Early Intervening Services Worksheet

Please Note: The following form must be filled out and attached to the original FS-10 budget form and two copies if the district proposes to use funds in the following manner:

- For the provision of CEIS activities for students not identified as needing special education or related services in **kindergarten** through the use of up to 15% of the total 2009-2010 IDEA, Part B section 619 allocation, including Part B ARRA funds.

➤ **Use the chart below to calculate the maximum permissible amount the district may use for activities related to comprehensive, coordinated early intervening services:**

<u>Column A</u>		<u>Column B</u>
IDEA Section 619 2009-2010 Final Allocation <u>including</u> ARRA Funds [Same as Column A]	Multiply Column E by 0.15	<u>Total</u> Applicable Amount
\$		\$

ATTACHMENT B (continued)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B **section 619** (including Recovery Funds)

Early Intervening Services Proposed Expenditures

Code	Description of Each Proposed Expenditure for the Provision of CEIS Direct or Indirect Activities for Kindergarten <u>Only</u>	<u>Column C</u> Total Expenditures for Activities related to Early Intervening Services
Totals Expenditures (Must not exceed the amount indicated in Column B and below)		\$

Please enter the amount listed in Column B of the worksheet →	\$
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ATTACHMENT C

(TO BE USED ONLY BY LEAs IDENTIFIED FOR SIGNIFICANT DISPROPORTIONALITY)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B section 611

Early Intervening Services Worksheet

Please Note: The following form **must** be filled out and attached to the original regular IDEA section 611 sub-grant budget form and two copies or the original ARRA section 611 section 611 sub-grant budget form and two copies, whichever is applicable.

- For the development and provision of comprehensive, coordinated early intervening services for students not identified as needing special education or related services in kindergarten through grade 12 (with an emphasis on students in kindergarten through grade 3) for section 611 and students not identified as needing special education or related services in kindergarten for section 619 through the use **15%** of the total 2009-2010 IDEA, Part B section allocation, including ARRA funds.
- **Use the chart below to calculate the maximum allowable amount of local tax effort the district may use for activities related to the ESEA if eligible as explained in the footnote below:
INELIGIBLE**
- **Use the chart below to calculate the maximum permissible amount the district may use for activities related to comprehensive, coordinated early intervening services:**

<u>Column A</u> IDEA Section 611 2009-2010 Final Allocation (less carryover funds)	Multiply Column B by 0.15	<u>Column C</u> <u>Total</u> Applicable Amount

ATTACHMENT C (continued)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B section 611

Early Intervening Services Proposed Expenditures

Code	Description of Each Proposed Expenditure for the Provision of Comprehensive, Coordinated Early Intervening Services	<u>Column H</u> Total Expenditures for Activities related to Early Intervening Services
Totals Expenditures (Must be equal to the amount indicated in Column C and below)		\$

Please enter the amount listed in Column C of the worksheet here →	\$	
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Narrative (Must be completed by LEAs notified by SED of disproportionality under §618(d) of the Act):

<p>Describe below how the proposed expenditures for comprehensive coordinated early intervening services listed above will address the identified area(s) of disproportionality of students with disabilities:</p>

ATTACHMENT D

(TO BE USED ONLY BY LEAs IDENTIFIED FOR SIGNIFICANT DISPROPORTIONALITY)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B section 619

Early Intervening Services Worksheet

Please Note: The following form must be filled out and attached to the original regular IDEA section 619 sub-grant budget form and two copies or the original ARRA section 619 sub-grant budget form and two copies, whichever is applicable.

- For the development and provision of comprehensive, coordinated early intervening services for **kindergarten students only** not identified as needing special education or related services through the use of 15% of the total 2009-2010 IDEA, Part B section 619 allocation, including ARRA funds.
- **Use the chart below to calculate the maximum allowable amount of local tax effort the district may use for activities related to the ESEA if eligible as explained in the footnote below:
INELIGIBLE**
- **Use the chart below to calculate the 15% amount the district must use for activities related to comprehensive, coordinated early intervening services:**

<p style="text-align: center;"><u>Column A</u></p> <p style="text-align: center;">IDEA Section 619 2009-2010</p> <p style="text-align: center;">Final Allocation (less carryover funds)</p> <p style="text-align: center;">[Same as Column A]</p>	<p style="text-align: center;">Multiply Column B by 0.15</p>	<p style="text-align: center;"><u>Column C</u></p> <p style="text-align: center;"><u>Total Applicable Amount</u></p>

ATTACHMENT D (continued)

Applicant Name:

Title of Grant: 2009-2010 Federal IDEA, Part B section 619

Early Intervening Services Proposed Expenditures

Code	Description of Each Proposed Expenditure for the Provision of Comprehensive, Coordinated Early Intervening Services	<u>Column H</u> Total Expenditures for Activities related to Early Intervening Services
Totals Expenditures (Must be equal to the amount indicated in Column C and below)		\$

Please enter the amount listed in Column C of the worksheet here	\$
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Narrative (Must be completed by LEAs notified by SED of disproportionality under §618(d) of the Act):

Describe below how the proposed expenditures for comprehensive coordinated early intervening services listed above will address the identified area(s) of disproportionality of students with disabilities:

**NEW YORK STATE POLICY GOVERNING THE
ADMINISTRATION OF
FEDERAL SUB-GRANT PROGRAMS**

Allocation of Sub-Grant Program Funds

Section 611 Allocations to LEAs – The total amount of funds available to a state educational agency (SEA), as determined by the Secretary of Education under IDEA, Part B, section 611, are allocated by New York State for use by public school districts, Special Act School Districts, State agencies, and State-operated schools.

- An amount equal to 75 percent of the 1999-2000 allocation to the State is distributed to eligible LEAs based on the December 1, 1998 child counts, as reported in the PD-1, PD-2 or PD-3 reports.
- Of the remaining amount of the 2009-2010 flow-through portion of the allocation, 85 percent is distributed based on relative numbers of all school-age children enrolled in public and private elementary and secondary schools located within each public school district's jurisdiction; and 15 percent is distributed based on the relative numbers of all school-age children in the public school district's jurisdiction living in poverty, as determined by the state educational agency (SEA).

Section 619 Allocations to LEAs – The total amount of funds available to a SEA, as determined by the Secretary of Education under IDEA, Part B, section 619, are allocated by New York State for use by public school districts, Special Act School Districts, State agencies, and State-operated schools as follows:

- An amount equal to 75 percent of 1997-98 allocation to the State is distributed to eligible LEAs, based on the December 2, 1996 child counts, as reported in the PD-1, PD-2 or PD-3 reports.
- Of the remaining amount of the 2009-2010 flow-through portion of the allocation, 85 percent is distributed based on relative numbers of all school-age children enrolled in public and private elementary and secondary schools located within each public school district's jurisdiction; and 15 percent is distributed based on the relative numbers of school-age children in the public school district's jurisdiction living in poverty, as determined by the SEA.

Applicant Eligibility

An eligible recipient of funds is a public school district, Special Act School District, State-operated School or State agency, which has:

- Submitted an application to the SED in substantially approvable form by the date established by the SED;
- Demonstrated compliance with State and federal law, regulation and policy governing the education of students with disabilities;
- Complied with all SED requests for special education data including, but not limited to, the PD forms; and

- Been determined by the SED to be willing and able to establish and maintain programs of free appropriate public education to meet the special education and related service needs of students with disabilities.

The SED may choose not to allocate funds to an LEA which does not meet these eligible recipient criteria. If so, the SED must, in the alternative, arrange for the allocation of such funds for use by other appropriate LEAs to meet the needs of eligible students.

Reallocation of Funds in the Absence of Required Applications

Allocations to LEAs not submitting their application in a timely manner will be reclaimed by the SED and reallocated for use by other agencies in accordance with the provisions of IDEA, Part B statute and regulations.

- The FS-10 must contain detailed program information including, but not limited to:
 - ✓ The Title, FTE, Annualized Rate of Pay and Proposed Expenditure must be indicated under Salaries for Professional Staff: Code 15 and Salaries for Support Staff: Code 16 of the FS-10;
 - ✓ For the annual IDEA section 611 and section 619 sub-grants, a detailed listing of vendor funding information to include a list of ASEPs⁹, number of students per provider, and the per student vendor funding amount under Purchased Services: Code 40 and, when applicable, Purchased Services with BOCES Code 49 of the FS-10, **if the LEA proposes to pay these expenditures, if any, using IDEA, Part B funds.** Funds must be paid under the Regular IDEA 611 and 619 grants, though calculated on the total of Regular and ARRA IDEA funds. To assist LEAs in calculating vendor funding for students with disabilities to ASEPs, a worksheet is available for both the section 611 and section 619 sub-grant projects under **ASEP Worksheets** on the web site. The SEDCAR report to calculate the minimum per student vendor funding amounts due each ASEP is available under **Federal Allocations** on the following web site address located at: <http://eservices.nysed.gov/alloweb/>
 - ✓ A detailed listing of equipment items with a unit costs of less than \$5,000 in Supplies and Materials: Code 45 of the FS-10; and
 - ✓ A detailed listing of equipment items with a unit costs of \$5,000 or greater under Equipment: Code 20 of the FS-10.

Omissions and lack of detail may result in delays in receipt of payments under these federal programs.

Once the application is approved by the program office, the individual budgets for both the 2009-2010 IDEA, Part B section 611 and section 619 sub-grants, as listed on the FS-10 form, and the individual budgets for both the 2009-2010 IDEA, Part B section 611 and section 619 ARRA sub-grants, as listed on the FS-10 form, the original and one copy of which will be forwarded to the Grants Finance Unit for

⁹ For the 2009-2010 school year, LEAs must pay one-third of their calculated 2009-2010 IDEA, Part B section 619 and section 611 per student vendor funding amount to ASEPs which submitted SEDCAR 1 forms for each preschool student with a disability for which it provided *related services only*. **Exception:** Any municipality which operated an SED-approved Special Education Itinerant Services (SEIS) program prior to July 1, 2003 and which submitted SEDCAR-1 forms for preschool students with a disability it provided *related services only* is eligible for full (100%) section 619 and section 611 per student vendor funding for each child.

further processing. Upon approval of each sub-grant by the Grants Finance Unit, a Grant Award Notice followed by a copy of the approved budget (FS-10) will be mailed to the LEA (public school district and Special Act school district).

Disapproval – Applicant Recourse

Applicant project expenditures which have been disapproved or disallowed by the SED's VESID Program Office for cause shall not be reimbursed from federal funds. Written notice of pending disapproval of an application/budget will be sent to the applicant for receipt at least thirty days prior to actual disapproval. The notice will contain a statement of the reasons for the pending disapproval or reclamation and corrective actions to be taken. Failure to submit an acceptable plan of corrective action in a timely manner could result in the forfeiture of 2009-2010 IDEA, Part B funds.

Such notice to the State agency or LEA will include the following information:

- Within thirty days of the date of receipt of the notice, the applicant may request a hearing before the Deputy Commissioner for the Office of Vocational and Educational Services for Individuals with Disabilities (VESID) or the designee of the Deputy Commissioner.
- If requested, a hearing shall be conducted within thirty days of receipt of the request.
- Within ten days following the hearing, the Deputy Commissioner shall issue a written ruling which includes the findings of fact and reasons for either rescinding or sustaining the recommended disapproval.
- If the action is not rescinded, the applicant may appeal to the United States Secretary of Education, the notice of which must be filed with the Secretary by the applicant within twenty days of the SED's notice of its findings.
- Any State agency or LEA that receives such notice must satisfy the public notice requirements of **34 CFR §300.222(b)**.

Technical Assistance for Budget-Related Forms

Please follow the instructions printed on page 1 of the FS-10 budget and FS-10-A amendment forms with the following understandings:

- A separate FS-10 must be completed for **each source of funds** (the regular IDEA section 611 and section 619 sub-grants and the ARRA IDEA section 611 and section 619 sub-grants). Enter the source of funds budgeted on the first line of page 1 of the budget form. Affix the appropriate project number label (enclosed with the Notice of Final Allocation mailing) on the budget summary page of each FS-10 form, before making photocopies for submission. The assigned project number for each source of federal funds appears on the Notice of Final Allocation.

Pursuant to NYS §4410-b, LEAs are required to pay vendor funding to ASEPs, on a per pupil basis, up to the number of students with disabilities placed in the program by the LEA on October 1, 2008. Upon receipt of SEDCAR-1 forms, LEAs must also disburse vendor funding to SED-approved out-of-state private schools if the LEA was the last school district of residence for students with disabilities when placed there by the courts (Article 81). Each ASEP eligible to receive such vendor funding will have that information reflected as a one-line entry in Code 40 (Purchased Services) and/or Code 49 (Purchased Services with BOCES) of the section 611 and/or section 619 FS-10 sub-grant projects based on the timely and accurate submission of a SEDCAR-1 form if the LEA chooses to disburse such funds using IDEA, Part B allocations rather than local funds. Additional information is available on pages 33-

37 of this memorandum in the section entitled: *State Procedures for the Disbursement of Federal Part B Flow-Through Allocations for 2009-10*.

- All public school districts, Special Act School Districts and State agencies have approved maximum restricted indirect cost rates, which may be budgeted under Code 90 of the FS-10 form. **Please note: Indirect costs may not be claimed on any vendor funding to ASEPs pursuant to NYS §4410-b, including Article 81 funds, as well as any portion of each sub-contract listed in Purchased Services (Code 40) exceeding \$25,000.**
- In accordance with federal rules, LEAs may not obligate funds for a proposed federal grant project until it has been received by SED in a substantially approvable form.
- For general information on funding procedures, financial forms and budget guidelines please refer to the Fiscal Guidelines for Federal and State Aided Grants, which is available on the OMS-Grants Finance Unit's web site – <http://www.oms.nysed.gov/cafe/>. For specific IDEA, Part B funding or application information, please refer to the resources listed on page 7 of this memorandum.

STATE PROCEDURES FOR THE DISBURSEMENT OF FEDERAL IDEA, PART B FLOW-THROUGH ALLOCATIONS FOR 2009-2010

Pursuant to the federal IDEA 2004 and §4410-b of the New York State Education Laws, the State Education Department (SED) must allocate all IDEA Part B flow-through funds to local educational agencies (LEAs), with the LEAs appropriately allocating vendor funds to approved special education programs (ASEPs). The per student vendor funding amount each LEA must pay to each eligible ASEP under section 611 and section 619 or using local funds is calculated by the LEA based on data reported by the LEA in the new **Student Information Repository System** (SIRS) for October 1, 2008 and the Approved Special Education Program Request For IDEA Vendor Funding (SEDCAR-1) forms received from ASEPs by March 1, 2009. LEAs may choose not to honor SEDCAR-1 requests received after this date, and thus, ASEPs who do not submit SEDCAR-1 forms to a LEA by this date may be ineligible to receive IDEA or local vendor funding for the 2009-2010 program year.

Included are:

- Procedures for disbursing IDEA, Part B flow-through funds in 2009-2010;
- SED resources which are available to provide technical assistance and information; and
- An LEA and ASEP Calendar of Events for 2009-2010.

Available on the VESID Special Education Budget and Finance Unit (SEBF) web site at www.vesid.nysed.gov/spedfin/ are:

- Worksheets to facilitate and ensure the accuracy of LEA calculations of IDEA, Part B section 611 and section 619 per student vendor funding amounts; and
- Commonly asked questions regarding allocation and vendor funding of IDEA, Part B funds

Please Note: Whenever this document refers to the use of IDEA, Part B section 611 and section 619 funds to provide vendor funding to approved special education programs (ASEPs) or to per student vendor funding to ASEPs, LEAs are required to calculate and disburse funds in amounts equivalent to the federal allocation amounts attributable to students enrolled in ASEPs. At the discretion of each LEA, such disbursements may be made using federal or local funds or a combination of each.

In addition, Section §4410-b of the New York State Education Laws (NYS §4410-b) requires LEAs to make vendor payments of funds to ASEPs using local funds if the LEA does not apply for federal funds under section 611 and section 619 or chooses to do so. The amount of vendor funding to be provided to each ASEP is equivalent to the same amount the LEA is required to pay had the LEA applied for the full amount of IDEA Part B section 611 and section 619 funds for which it was eligible.

I. Method for LEAs to Calculate Per Student Vendor Funding Amounts Using 2009-2010 IDEA, Part B Flow-Through Funds to ASEPs

Pursuant to federal and State statutes, the initial budgets for the 2009-2010 IDEA, Part B section 611 and section 619 sub-grant programs may include a vendor amount to be disbursed to each eligible ASEP serving students with disabilities. To assist LEAs in calculating per student vendor funding amounts to ASEPs, worksheets for the section 611 and section 619 sub-grant projects are available on the SEBF web site under **ASEP Worksheets** and the SEDCAR report to calculate the minimum per student vendor funding amount is also available on this web site under **Federal Allocations** by scrolling down and clicking on **Final Notices of Allocations under IDEA, Sections 611 and 619 for School Years 2000-01 through 2009-10**. In this regard, BOCES preschool ASEPs should be listed in Purchased Services from BOCES: Code 49 and all other ASEPs should be listed in Purchased Services: Code 40 in the FS-10. Upon SED approval and processing of the LEA's FS-10s for each of these projects, 20 percent of the budget amounts will be disbursed to the LEA. Additional disbursements of section 611 and/or section 619 project funds to LEAs will be made upon their submission of a *Request for Funds for a Federal or State Project* form (FS-25) and the *Final Expenditure for a Federal or State Project* form (FS-10-F).

Vendor Funding to ASEPs

ASEPs are eligible for vendor funding of 2009-2010 IDEA, Part B section 611 and section 619 flow-through or local district funds on a per student basis, based on the number of students provided special education services on October 1, 2008 for preschool and school-age students with disabilities, pursuant to NYS §4410-b (for preschool students with disabilities), Article 89 (placement of school-age students by Committees on Special Education) and Article 81 (placements of school-age students through courts or State agencies). There are two general types of ASEPs:

- ASEPs which operated a special education itinerant teacher program, a special class program or a special class in an integrated setting, on October 1, 2008, including:
 - ✓ An approved preschool special education program as described above which provided related services only may submit SEDCAR forms for the related services only children.
 - ✓ 4201 Schools, which operate approved preschool special education programs.
 - ✓ Boards of Cooperative Educational Services (BOCES) which operate approved preschool special education programs.
 - ✓ School districts which operate approved preschool special education programs.
- ASEPs which provided special education services on October 1, 2008, including:
 - ✓ Approved private schools for students with disabilities, that receive students from public school districts (Article 89 placements).
 - ✓ 4201 Schools.
 - ✓ Approved out-of-state private schools for students with disabilities that receive students through courts or State agencies (Article 81 placements).

Please Note: Programs that only serve students with disabilities on an Emergency Interim Placement basis are not ASEPs and are not eligible for 2009-2010 IDEA, Part B vendor funding through the procedures outlined in this memorandum.

In order to receive 2009-2010 IDEA, Part B section 611 and section 619 or local vendor funding pursuant to NYS §4410-b, the ASEP must have submitted a SEDCAR-1 form (Approved Special Education Program Request for IDEA, Part B Vendor Funding), on or before March 1, 2009, to each LEA which placed one or more students with disabilities in the ASEP program on October 1, 2008 for school-age students and preschool students with disabilities. Approved out-of-state private schools in which courts placed students with disabilities (Article 81) will also submit a SEDCAR-1 form to request a per student vendor funding amount from the school district of residence that maintains committee on special education (CSE) responsibility for such students.

For students placed by the courts and State agencies in approved private in-state residential schools that provide students with services pursuant to Article 81, a separate SEDCAR-2 (In State Article 81 School Notice of Designated Local educational agency for IDEA, Part B Funds) form is required. This form is used to designate the LEA to be allocated the 2009-2010 IDEA, Part B section 611 and section 619 flow-through allocations attributable to students receiving services pursuant to Article 81, reported by such schools in the **December 1, 1998 PD-2 reports** and adjusted for population and poverty. The LEA is receiving these additional funds to be added to its final notice of allocation and is required to provide vendor funds to the in-state school providing services to students pursuant to Article 81. Please note: LEAs designated to receive Article 81 funds for 2009-2010 and 2010-2011 will receive these funds as part of the IDEA regular and IDEA ARRA section 611 final allocations. Therefore, an LEA which receives section 611 Article 81 funds must disburse such funds to the appropriate ASEP(s) and list these proposed expenditures in the IDEA regular and IDEA ARRA section 611 FS-10 sub-grants within Purchased Services: Code 40. Local funds cannot be used for this purpose. **ALL OTHER ASEP FUNDS MUST BE PAID OUT OF THE REGULAR IDEA SECTION 611 AND SECTION 619 SUB-GRANTS, NOT ARRA IDEA FUNDS, ALTHOUGH THE CALCULATION OF PER STUDENT VENDOR FUNDING MUST INCLUDE BOTH FUNDING SOURCES.**

The responsibilities of LEAs designated through this procedure are identical to those specified for LEAs who have placed students with disabilities in other types of approved special education programs.

Vendor Funding Requirements

In accordance with State statute, payments of 2009-2010 IDEA, Part B section 611 and section 619 vendor funds shall be made by LEAs to ASEPs in the same proportion as funds are disbursed to LEAs by SED, within 30 calendar days after the LEA receives any portion of its allocation of funds for the current year. The last 10% payment to ASEPs must be made prior to the LEAs submitting their FS-10-Fs. **Please note: LEAs must now pay one-third of their calculated 2009-2010 IDEA, Part B section 619 and section 611 per student vendor funding amount to ASEPs which submitted SEDCAR-1 forms for preschool students with a disability which they provided *related services only* with one exception.**¹⁰

In accordance with the requirements of §613(f) of the Act and 34 CFR §300.646(b)(2), if SED has notified the LEA that it has been identified for disproportionality by race/ethnicity in the identification, classification, placement and/or long term suspension of students with disabilities for the 2009-2010 school year, it must reserve and expend 15% of the district's 2009-2010 regular IDEA, and ARRA IDEA section 611 and section 619 final allocations, solely for the provision of

¹⁰ Exception: Any municipality which operated an SED-approved Special Education Itinerant Services (SEIS) prior to July 1, 2003 which submitted SEDCAR-1 forms for preschool students with a disability which it provided *related services only* is eligible for full (100%) section 619 and section 611 per student vendor funding for each child.

comprehensive, coordinated early intervening services. However, for the purpose of calculating the correct per student vendor funding amounts due to each ASEP, an LEA which has received such notification must first:

- Calculate the 15% to be directed towards the expenditure for CEIS activities for students 5-21 using regular IDEA section 611 funds by multiplying the total final allocation for this funding stream by **0.85**; then
- Calculate the 15% to be directed towards the expenditure for CEIS activities for students 5-21 using ARRA IDEA section 611 funds by multiplying the final allocation for this funding stream by **0.85**; then
- Add these two amounts together and deduct the federal proportionate share of total section 611 regular and ARRA IDEA funds for services for parentally placed students with disabilities ages 5-21 reserved for this purpose, if applicable.¹¹
- Calculate the 15% to be directed towards the expenditure for CEIS activities for students in kindergarten using regular IDEA section 611 funds by multiplying the total final allocation for this funding stream by **0.85**; then
- Calculate the 15% to be directed towards the expenditure for CEIS activities for kindergarten students using ARRA IDEA section 611 funds by multiplying the final allocation for this funding stream by **0.85**; then
- Add these two amounts together and deduct the federal proportionate share of total section 619 regular and ARRA IDEA funds for services for parentally placed students with disabilities ages 5-21 reserved for this purpose, if applicable.¹²

The remaining adjusted amounts for section 611 and section 619 would then used to calculate the correct per student vendor funding amount for each funding stream due to each ASEP by using the optional worksheets available for this purpose at: www.vesid.nysed.gov/spedfin/ and then listing these expenditures in the REGULAR IDEA section 611 and section 619 sub-grants ONLY.

LEA-ASEP vendor relationships require the submission of a budget that describes the services the LEA is purchasing from the ASEP pertaining to the education of students with disabilities 3-21 attending it. In addition, LEA-ASEP vendor relationships require the development of a legal agreement prior to the disbursement of funds from the LEA to each ASEP. The legal agreement between the LEA and ASEP must contain, but is not limited to, the following:

- The submission by the ASEP of periodic reports to the LEA containing programmatic and fiscal information; and
- The submission by the ASEP of a final expenditure report to the LEA delineating the manner in which the ASEP spent the vendor funds it received from the LEA.

¹¹ To find the total amount of federal proportionate share of 2009-2010 funds the school district received from the State Education Department for students with disabilities ages 5-21 parentally placed in nonpublic schools, go to: <http://www.vesid.nysed.gov/sedcar/federal.htm>

¹²Ibid.

ASEPs may obligate funds that are provided through vendor funding by LEAs as of the beginning date established in the written agreement.

For the 2009-2010 school year, the additional ARRA IDEA funds an LEA receives **must** be added to the regular IDEA section 611 and section 619 final allocations to calculate the per student vendor funding amounts due to ASEPs for each project. ASEP per student vendor funding amounts will therefore be increased for each project due to the additional ARRA IDEA funds and ASEPs will receive IDEA funds from both funding streams.

LEAs are required to report quarterly to the State certain specific data elements regarding the use of ARRA funds it receives during the 2009-2010 school year on time. This would include data from ASEPs it has a vendor funding relationship with which would include how the ASEP spent the additional ARRA funds it received from the LEA. This will require the cooperation of each ASEP operator with each LEA it has a vendor relationship with and may require revisions to the 2009-2010 contract between each LEA and the ASEP regarding required reporting of specific data elements to be prescribed by the State and the due dates for ASEPs to report this data to the LEA to ensure the LEA is in compliance with the due dates for the quarterly reports.

Suggested Uses of Funds

IDEA Part B regular and ARRA funds may be, but are not limited to, the following expenditures which are not also included in the tuition rate:

- Staff recruitment activities;
- Retention bonuses;
- Art and music therapies by part-time staff or contract services;
- To purchase appropriate technology for recordkeeping, data collection and related case management activities associated with a student with a disability's individualized education program (IEP).
- To purchase materials and supplies to enhance the special education program;
- To purchase state-of-the art assistive technology devices for students with disabilities and to provide training in their use to enhance these students' access to the general curriculum.

These devices could include, but are not limited to:

- ✓ Computers and software programs;
- ✓ Telecommunications, sensory and other technological aids and devices; and
- ✓ Specialized furniture and equipment, including adaptive physical education equipment; and
- To provide professional development that focuses on improving outcomes for students with disabilities. Any proposed professional development should be provided on site whenever possible to avoid unnecessary travel expenses. However, if an ASEP operator proposes to provide staff development activities that require travel, it is urged to use fiscal prudence in arranging travel arrangements. For example, travel by airplane should not be first class and overnight

accommodations and meals should, whenever possible, be in accordance with current government rates. Travel is limited to the continental United States and international travel is prohibited.

SED Web Site Regarding IDEA, Part B Allocations

To reduce administrative burden and facilitate budgeting for LEAs and for ASEPs, the following information will be posted on the New York SED, VESID SEBF web site at <http://www.vesid.nysed.gov/spedfin/>. This is the **WEB SITE FOR THE VESID UNIT RESPONSIBLE FOR PROGRAMMATIC REVIEW AND APPROVAL OF IDEA, PART B FEDERAL FUNDS**. This site will contain links to the other sites that contain information regarding IDEA, Part B. A Question & Answer and comment form is also available for your convenience:

- 1) Each LEA's allocations for 2009-2010 IDEA regular and ARRA, Part B section 611 and section 619 final allocation, will be posted and available for viewing under **Federal Allocations** by scrolling down and clicking on **Final Notices of Allocations under IDEA, Sections 611 and 619 regular and ARRA for School Year 2009-10**. This posting will include the LEA name, BEDS code, allocation amounts, and the total resident student counts of children with disabilities. The student count should be divided into the allocation for the section 611 and section 619 sub-grant projects to calculate the minimum per student vendor funding amount due to ASEPs for each project. Please note: the per student vendor funding amount due to ASEPs remains the same if the LEA chooses to pay ASEPs using regular IDEA section 611 and section 619 sub-grant funds and/or local funds. Allocation information will be posted for 2009-2010.
- 2) Information pertaining to LEAs which are designated by an in-state Article 81 ASEP to receive additional 2009-2010 regular IDEA and ARRA IDEA section 611 allocations will be posted under **Federal Allocations** by scrolling down to **Additional Allocations to LEA's Designated to Sub-allocate IDEA Funds to Article 81 Schools** and clicking on **2009-2010**. This posting will include the LEA name, the LEA BEDS Code, the ASEP name, the ASEP BEDS Code, and the section 611 and section 619 allocation amounts to be disbursed to eligible ASEPs.

SED INFORMATION CONTACTS

If you have any questions pertaining to this material, please contact one of the following SED units:

- VESID - Special Education Budget and Finance - **(518) 486-4734** – Regarding general policy/procedures, status of applications, allowable expenses and federal laws and regulations, and procedures for calculating and budgeting per student vendor funding amounts. Please e-mail us at: vesidbnf@mail.nysed.gov
- SEDCAR - **(518) 486-4678** – Regarding status of SEDCAR-2 forms, child counts reported through SIRS district data reports and Federal allocations.
- Special Education Policy Unit - **(518) 473-2878** – Regarding Approved Special Education Programs.