U.S. Department of Education
Office of Inspector General

501 I Street, Suite 9-200
Sacramento, California 95814
Phone (916) 930-2388 • Fax (916) 930-2390

November 19, 2003

ED-OIG/A09-C0025

Richard Mills
Commissioner
New York State Education Department
88 Washington Avenue
Albany, New York 12234

Dear Commissioner Mills:

This Final Audit Report, entitled *Charter Schools Access to IDEA, Part B Funds in the State of New York*, presents the results of our audit of the New York State Education Department (NYSED) and three local educational agencies (LEAs) within the State. The purpose of the audit was to determine whether NYSED and the LEAs (1) provided new or expanding charter schools with timely and meaningful information about the Individuals with Disabilities Education Act (IDEA), Part B funding for which these schools might have been eligible, and (2) had management controls that ensured charter schools, including new or expanding schools, were allocated the proportionate amount of IDEA, Part B funds for which these schools were eligible.[1] Our review covered school years 2000-2001 and 2001-2002.

We provided NYSED with a draft of this report. NYSED concurred with the finding and generally agreed with the recommendations in this final report. NYSED's comments are summarized in the body of the report and included in their entirety as an attachment.

BACKGROUND

The IDEA, Part B § 611 provides grants to states for special education and related services for children with disabilities. Section 5206 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), requires the Department and states to take measures to ensure every charter school receives the Federal funds, including

[1] For purposes of this report, an "expanding" charter school is one that has significantly expanded enrollment.

IDEA, Part B funds, for which it is eligible no later than five months after the school first opens or expands enrollment.[2]

The New York State Legislature enacted the State charter school law in 1998, and the State's first five charter schools opened in September 1999. In school year 2001-2002, a total of 32 charter schools were operating within the boundaries of 10 LEAs. Most charter schools were located in the State's three largest LEAs—New York City Department of Education [New York City School District (SD)], Buffalo City School District (Buffalo City SD), and Rochester City School District (Rochester City SD).

Number of Public Schools				
LEA	School Year 2000-2001		School Year 2001-2002	
	Total	Charter Schools	Total	Charter Schools
New York City SD	1,208	12	1,220	17
Buffalo City SD	80	2	82	4
Rochester City SD	56	3	57	4

For school year 2001-2002, NYSED allocated $167 million in IDEA, Part B funds to 709 LEAs, based on December 1, 1998, special education counts of students ages 3-21 and adjustments for each LEA's total student population and poverty. LEAs were to report student counts that included students attending charter schools located within the LEA boundaries. NYSED also required charter schools to submit a report (PD-1C/4C) providing counts of students with disabilities receiving services in the charter schools on December 1, 2001,[3] and identifying the LEA in which each student resided (resident LEA). NYSED instructed the charter schools to provide a copy of the PD-1C/4C to each resident LEA.

For purposes of the IDEA, NYSED has concluded that a charter school in the State of New York is deemed a school of the LEA in which an enrolled student resides (resident LEA). Under State charter school law, a charter school can have enrolled students from multiple resident LEAs. Each resident LEA is responsible for developing the individualized education programs (IEPs) for students with disabilities who reside within the LEA's boundaries and require special education services, including those students attending charter schools. Special education programs and services are to be provided to special education students enrolled in charter schools in accordance with the IEP. The charter school may arrange to have such services provided by the resident LEA, or by the charter school directly or by contract with another provider. If not providing the special education services itself, the resident LEA is required to pay the Federal and State aid attributable to a student with a disability to the charter school in proportion to the level of services directly or indirectly provided by the charter school. [New York Education Law § § 2454(2)(b), 2853(4)(a), and 2856(1)]

[2] This provision was originally enacted by the Charter School Expansion Act of 1998.

[3] The New York State Regulations of the Commissioner of Education, § 119.1 requires that counts of children with disabilities be taken as of December 1 of each year. Since December 1, 2001, fell on a Saturday, NYSED modified the date to December 3, 2001.

New York State regulations describe the formula resident LEAs are to use to calculate IDEA, Part B allocations for charter schools where students with disabilities are enrolled. The four-part formula consists of the charter school's December 1 count, the LEA-determined per pupil dollar amount, the portion of the school year for which each student is enrolled at the charter school, and the portion of services delivered by the charter school for each student.

AUDIT RESULTS

In the four years that charter schools have existed in New York, NYSED has implemented policies and procedures consistent with regulations and non-regulatory guidance implementing § 5206 of the ESEA and applicable to charter schools and their access to IDEA, Part B program information and funds. However, NYSED needs to take additional steps to ensure LEAs comply with applicable Federal laws and regulations. Specifically, NYSED needs to ensure that LEAs provide charter schools with meaningful information about accessing IDEA, Part B funds, allocate a proportionate amount of IDEA, Part B funds to all eligible charter schools, and provide the IDEA, Part B funds to new or expanding charter schools within five months of their opening or expansion dates.

The OTHER MATTERS section of the report provides information on the various special education funding and service-delivery arrangements for the charter schools located in the three LEAs we reviewed. We concluded that these arrangements were consistent with State charter school law, but the arrangements may not be consistent with the IDEA requirement to provide services and funding for children with disabilities in the same manner as other public schools.

FINDING – NYSED Needs to Take Additional Steps to Ensure that Charter Schools Receive Proportionate and Timely Access to IDEA, Part B Funds

Our review of three LEAs found instances where the LEAs did not comply with the Federal laws and regulations implementing § 5206 of the ESEA. Two of the LEAs did not provide sufficient information to charter schools on accessing IDEA, Part B funds. Two LEAs each did not allocate a proportionate amount of IDEA, Part B funds to a charter school. All three LEAs did not have adequate procedures to ensure IDEA, Part B funds were allocated to new or expanding charter schools within five months of their opening or expansion dates. While NYSED has provided guidance to LEAs, NYSED needs to enhance its monitoring of LEA compliance with the guidance and Federal laws and regulations applicable to providing charter schools access to IDEA, Part B funds.

New York City SD and Buffalo City SD Did Not Provide Sufficient Information to Charter Schools on Accessing IDEA, Part B Funds

The regulation at 34 C.F.R. § 76.789(a) requires that new or expanding charter schools be provided with timely and meaningful information about the IDEA, Part B program. Departmental guidance issued in December 2000 (Question and Answer No. 16), defines meaningful information, in part, as the "information the charter school reasonably needs to know to make an informed decision about whether to apply to participate in a particular covered program and the steps the charter school needs to take to do so."

Two of the LEAs we reviewed had procedures for allocating IDEA, Part B funds to charter schools, but the LEAs did not provide sufficient information to charter schools on how the schools could obtain access to the funds. As a result, charter schools submitted incomplete data or no data at all, and may not have received all the IDEA, Part B funds for which the schools were eligible.

New York City SD. To determine IDEA, Part B allocations for charter schools, the District used information provided by charter schools on a district-developed form (called the Billing Document for Charter Schools) for the applicable December 1st period. The billing document, which was designed to provide information for State-funded special education services, contained spaces for schools to provide individual student information, including level of service.

The District did not inform the charter schools, which were nearly all new or expanding schools, that the December 1 billing document would be used to determine IDEA, Part B fund allocations. Also, charter schools may not have reported complete student counts on the billing form due to the form instructions. From our conversations with representatives from two charter schools, we learned that the schools did not list all students with disabilities receiving special education services on the billing document because the form instructions for level of service states that "[n]o provision is made for pupils who receive special education services less than 20% of the school day." Schools were not eligible to receive State funds for students who received services less than 20 percent of the school day. There is no such restriction for IDEA, Part B funds under the State's formula for allocating these funds to charter schools that provide special education services. Of the 12 charter schools that submitted the billing forms used by the District for school year 2000-2001 to determine IDEA, Part B allocations, we found that 8 charter schools did not report any students with service levels below 20 percent. For school year 2001-2002, we found that 7 of the 17 charter schools that submitted billing forms did not report any such students.

As part of its preparation for IDEA, Part B allocations for school year 2002-2003, the District issued a memorandum, dated November 25, 2002, informing charter schools that the December 1 billing document would be used to determine the allocations. While this action provided meaningful information to existing charter schools, the District should ensure that future new charter schools also receive this information. In addition, in order to comply with State regulations, the District should revise the form instructions to explicitly state that, for IDEA, Part B purposes, all students must be listed on the form regardless of the level of service.

Buffalo City SD. The District's Special Education Supervisor informed us that the District provides physical therapy, occupational therapy, and speech services for students enrolled in charter schools, but that the charter schools are responsible for providing other special education services.[4] Although charter schools can request a proportionate amount of IDEA, Part B funds from the District for school-provided services, the District did not provide information to new or expanding charter schools about the procedures for requesting these funds.

During our interviews with representatives from the four charter schools located in the District, which were all new or expanding schools, we were told by two charter schools that they did not know how to obtain the IDEA, Part B funds from the District. Thus, the charter schools did not

[4] The District provided all special education services for students enrolled in traditional public schools.

request funds and, as a result, were not allocated IDEA, Part B funds for school-provided services. From the PD-1C forms that the charter schools submitted to NYSED, we found that one charter school provided special education services to 11 students in school year 2000-2001. For school year 2001-2002, three charter schools provided services to a total of 29 students.

Buffalo City SD should have been aware that the charter schools were providing services since, under State law, the District was responsible for developing the IEPs for students enrolled at the charter schools. The District needs to provide the charter schools with instructions and forms for requesting IDEA, Part B funds for school-provided special education services.

Buffalo City SD and Rochester City SD Each Did Not Allocate Proportionate Amount of IDEA, Part B Funds to a Charter School in School Year 2001-2002

The ESEA § 5206 implementing regulations at 34 C.F.R. § § 76.792(a) and 76.799(a) require LEAs to ensure eligible new or expanding charter schools receive a proportionate amount of Federal funds. The regulations state—

> For each eligible charter school LEA that opens or significantly expands its enrollment on or before November 1 of an academic year, the [State educational agency (SEA)] must implement procedures that ensure that the charter school LEA receives the proportionate amount of funds for which the charter school LEA is eligible under each covered program.
> 34 C.F.R. § 76.792(a)
>
> Each LEA that is responsible for funding a charter school under a covered program must comply with the requirements in this subpart on the same basis as SEAs are required to comply with the requirements of this subpart.
> 34 C.F.R. § 76.799(a)

Two LEAs we reviewed made errors in computing IDEA, Part B allocations, which resulted in two charter schools receiving less than the proportionate amount of funding for which they were eligible for school year 2001-2002.

Buffalo City SD. The Buffalo City SD incorrectly calculated the IDEA, Part B allocation for the Charter School for Applied Technologies, which was a new school in school year 2001-2002. None of the charter schools located within the District requested IDEA, Part B funds for the two school years covered by our review. However, the Charter School for Applied Technologies, which was located outside the District's boundaries and had enrolled students who resided within the District's boundaries, requested funds from the District for school year 2001-2002. Using the State's formula for LEA allocations to charter schools, we determined that the charter school should have received $11,703 more than the amount allocated. We were unable to identify the specific calculation error because the District could not provide documentation of the allocation calculation, even though 34 C.F.R. § 80.42(b) requires that programmatic documentation be retained for three years. Also, the District's Special Education Supervisor could not reconstruct the calculation.

Rochester City SD. The Rochester City SD did not properly calculate the IDEA, Part B allocation for Eugenio Maria de Hostos Charter School. The District calculated the allocation using student counts submitted for school year 2000-2001, even though the school had significantly increased its enrollment by a third when a grade was added in school year 2001-2002. Federal regulations at 34 C.F.R. § 76.796 require adjustments to a new or expanding charter school's allocation based on actual student counts for the current year.

Rochester City SD was advised of this requirement in instructions provided by NYSED for school year 2001-2002. Under the District's procedures, charter schools were to have submitted a December 1, 2000, student count in February 2001 for the District to calculate the schools' IDEA, Part B allocations for both school years 2000-2001 and 2001-2002. Thus, the District's procedures did not address the requirement to use current-year student counts when a charter school significantly expands enrollment. Based on the charter school's December 1, 2001, student count, we determined that Eugenio Maria de Hostos Charter School would have received $805, or 20 percent, more than the amount of IDEA, Part B funds allocated if the District had considered the increase in enrollment.

Neither the Buffalo City SD nor the Rochester City SD had written procedures requiring reviews of allocation calculations. LEAs need to have procedures for ensuring the accuracy of allocation calculations and to retain supporting documentation for the required period.

All Three LEAs Did Not Have Adequate Procedures to Ensure IDEA, Part B Funds Were Allocated to New or Expanding Charter Schools Within Five Months

Federal regulation at 34 C.F.R. § 76.793(a) requires the LEA to ensure that eligible new or expanding charter schools have access to allocated Federal funds within five months of their opening or expansion. The regulation states—

> For each eligible charter school . . . that opens or significantly expands its enrollment on or before November 1 of an academic year, the . . . [LEA] must allocate funds to the charter school . . . within five months of the date the charter school . . . opens or significantly expands its enrollment . . .

To trigger the five-month requirement, a charter school must have provided written notification of its opening or expansion date, otherwise the LEA is not required to provide access to the allocated funds within five months. The regulations at 34 C.F.R. § § 76.788(a) and 76.789(b)(3) state—

> At least 120 days before the date a [charter school] is scheduled to open or significantly expand its enrollment, the [charter school] or its authorized public chartering agency must provide its [LEA] with written notification of that date. 34 C.F.R. § 76.788(a)

> The failure of an eligible [charter school] or its authorized public chartering agency to provide notice to its [LEA] in accordance with § 76.788(a) relieves the [LEA] of any obligation to allocate funds to the charter school within five months. 34 C.F.R. § 76.789(b)(3)

For the charter schools covered by our review, the five-month timeframe specified in the regulations would begin with the start of the school year in September and end in February.

Of the three LEAs we reviewed, only the New York City SD relied on alternative reporting mechanisms to identify new or expanding charter schools and did not require charter schools to provide written notice. Despite having identified the applicable charter schools, this District did not allocate IDEA, Part B funds to new or expanding charter schools within five months of their opening or expansion dates for school years 2000-2001 and 2001-2002. For the earlier school year, nine new or expanding charter schools received their IDEA, Part B funds in May 2001. For school year 2001-2002, ten new or expanding charter schools received their funds in April 2002.

Had the Rochester City SD received written notice, the District would have been late in allocating IDEA, Part B funds to new or expanding charter schools for school year 2000-2001, but would have met the five-month requirement the following year. For school year 2001-2002, the Buffalo City SD would have been late in allocating those funds to the one new charter school located outside the District's boundaries, had there been evidence of written notice 120 days prior to the school's opening.

For the two school years covered by our review, none of the three LEAs had written procedures specifying the timeframe for allocating IDEA, Part B funds to new or expanding charter schools. Also, the LEAs' special education program staff, who were responsible for allocating IDEA, Part B funds to charter schools, told us that they were not aware of the five-month requirement.

Between school years 2000-2001 and 2001-2002, the New York City SD and Rochester City SD took steps that improved the timeframes in which charter schools received IDEA, Part B funds. Additionally, according to New York City SD's Assistant Director for the Office of Charter Schools, charter schools received their IDEA, Part B funds on time for school year 2002-2003.

NYSED Incrementally Provided Guidance for LEA Allocations, But Did Not Monitor for Compliance

The State is responsible for ensuring LEAs comply with the ESEA § 5206 requirements. In the preamble to the 1999 final implementing regulations, the Secretary responded to a comment on the need for expanding regulations to address LEA-specific circumstances, stating—

> States are directly responsible for ensuring that LEAs meet the requirements of section [5206] of the Act and these final regulations. Accordingly, the Department expects that some SEAs may also provide guidance to LEAs on these matters.
> 64 FR 71972

NYSED's actions for ensuring that LEAs provide eligible charter schools with access to IDEA, Part B funds in accordance with applicable laws and regulations have been limited to providing guidance to LEAs addressing the allocation of IDEA, Part B funds to charter schools. The guidance has evolved since charter schools opened in the State in school year 1999-2000.

- Beginning with school year 2000-2001, NYSED had LEAs sign an assurance that IDEA, Part B funds would be allocated to charter schools consistent with State and Federal laws and regulations.

- In school year 2001-2002, NYSED provided LEAs guidance on the formula to use to allocate IDEA, Part B funds to charter schools, and specified the requirement for LEAs to establish administrative and accounting procedures for receiving student counts from charter schools and allocating a proportionate amount of IDEA, Part B funds to those schools. NYSED also instructed charter schools to send their completed PD-1C forms to LEAs to assist in LEA allocation of IDEA, Part B funds to charter schools.

- In school year 2002-2003, NYSED included guidance in its annual instructions to LEAs on the five-month requirement for allocating IDEA, Part B funds to new or expanding charter schools.

Aside from providing statewide guidance, NYSED has not monitored the LEAs to ensure they have implemented State policies and procedures, such as establishing procedures for receiving student counts and allocating IDEA, Part B funds to charter schools, or complied with applicable State and Federal laws and regulations.

Both NYSED's Special Education Budget and Finance Coordinator and its Data Manager told us that, given NYSED's available resources, the policies and procedures outlined above constituted reasonable steps for ensuring that charter schools, including new or expanding charter schools, received the IDEA, Part B funds for which they were eligible. They stated that the charter school bears the responsibility of providing the LEA with a copy of the PD-1C/4C form before the LEA can be held responsible for allocating IDEA, Part B funds to the charter school. The Special Education Budget and Finance Coordinator informed us that no charter school had formally submitted an appeal for IDEA, Part B funds for the two school years covered by our review.[5]

We found that the PD-1C or PD-1C/4 C form contains only aggregate student counts and does not identify individual students or the LEA- and charter school-provided special education services. The LEAs we reviewed still needed to provide information to charter schools, including new or expanding schools, about additional data submission requirements. Moreover, some LEAs may not receive or use charter schools' PD-1C forms, yet have IDEA, Part B allocation processes that use other charter school-reported information, as we found in the New York City SD and Rochester City SD.

During interviews with representatives from 31 charter schools,[6] some charter school officials told us that their schools did not receive an IDEA, Part B allocation until NYSED was asked to informally intervene with the applicable LEA. In addition, absent sufficiently meaningful information about LEA allocation processes, charter school officials told us they did not know whether the schools' allocation amounts were correct. Our interviews with some charter school officials also disclosed that the schools' relationships with LEAs were often tenuous as some LEAs would not provide information about how to access IDEA, Part B funds or made it difficult for the charter school to obtain district-provided services for students with disabilities. Other charter schools reported positive or improved relationships with LEAs.

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[5] Under State law, charter schools can appeal to NYSED when an LEA does not provide State or Federal funds due to the charter school. In the event of a successful appeal, NYSED can deduct from the LEA the amount of funds due to the applicable charter school.

[6] Of the 31 charter schools, we determined that 27 of them were either new or expanding in school year 2001-2002.

Based on our findings and interviews with charter school officials, NYSED needs to take steps to ensure that LEAs have procedures that clearly define the roles and responsibilities of the LEA and new or expanding charter schools, data submission requirements, and the LEA's IDEA, Part B allocation process. The need for clearly defined procedures is critical because LEAs are likely exercising the flexibility that NYSED policies and procedures allow and using funding and service-delivery arrangements that differ from other public schools and other LEAs, as we found in the three LEAs we reviewed. Without such procedures, charter schools, including new or expanding schools, may be at risk of not receiving the IDEA, Part B funds for which they are eligible.

Recommendations

The Assistant Secretary for Special Education and Rehabilitative Services should require NYSED to—

1.1 Ensure LEAs provide meaningful information to charter schools, including new or expanding charter schools, about the LEA procedures for allocating IDEA, Part B funds and data submission requirements. In addition, the LEAs should take steps to ensure charter schools understand their responsibilities and the steps they need to take to access these funds.

1.2 Ensure LEAs have written procedures for receiving complete student counts from charter schools, including new or expanding schools, and allocating a proportionate amount of IDEA, Part B funds to those schools. These procedures should include detection of allocation errors, retention of documentation supporting the IDEA, Part B allocation amounts, and the use of current-year student counts for calculating IDEA, Part B allocations for expanding charter schools.

1.3 Ensure that the Charter School of Applied Technologies and the Eugenio Maria de Hostos Charter School receive the additional $11,703 and $805 in IDEA, Part B funds, respectively, for which these schools were eligible.

1.4 Ensure LEAs modify their procedures, as needed, to make certain eligible new or expanding charter schools are allocated IDEA, Part B funds within five months of their opening or expansion dates, provided that the charter schools have met requirements for written notice at least 120 days prior to their opening or expansion.

1.5 Include in its technical assistance and monitoring reviews LEAs' adherence to written procedures related to allocating IDEA, Part B funds to charter schools consistent with the ESEA § 5206 requirements.

NYSED Comments

NYSED concurred with the finding and generally agreed with the recommendations. NYSED stated that it has taken steps to help ensure LEAs meet their responsibilities towards charter schools. These steps include providing technical information to charter schools on the NYSED website and in correspondence. Additionally, NYSED intends to send each charter school and school district guidance on its responsibilities in regard to IDEA funds in school year 2003-2004. As part of its monitoring of charter schools, NYSED will ensure that the LEAs have provided

charter schools with meaningful information about LEA procedures for allocating IDEA, Part B funds and data submission requirements. NYSED will also determine whether the charter schools understand their responsibilities and the steps they need to take to access these funds. Through audits, technical assistance, and monitoring visits to LEAs, NYSED will review LEAs' adherence to requirements for allocating IDEA, Part B funds to charter schools.

OTHER MATTERS

As described in the BACKGROUND section of the report, the State of New York's charter school law allows a charter school to provide some or all special education services specified in the student's IEP. The arrangements may not be consistent with the IDEA, Part B regulations at 34 CFR § § 300.312(c) and 300.241, which state that, if a charter school is considered a school of an LEA, the LEA must (1) serve children with disabilities attending charter schools in the same manner as it serves children with disabilities in its other schools, and (2) provide funds under IDEA, Part B to its charter schools in the same manner as it provides Part B funds to its other schools.[7]

The three LEAs we reviewed provided all special education services for children enrolled in non-charter public schools. For charter schools, the IDEA, Part B funds allocated and delivery of special education services varied.

IDEA, Part B Funding and Special Education Service-Delivery Arrangements for Charter Schools Located Within District Boundaries			
	Number of Charter Schools in School Year 2001-2002		
	New York City SD	**Buffalo City SD**	**Rochester City SD**
Charter school received IDEA, Part B funds from LEA to provide services	14	-	3
Service-Delivery Arrangement			
Charter school provided all services	10	-	4
LEA provided all services	3	-	-
Both charter school and LEA provided services	3	3	-
Unknown or no students with disabilities	1	1	-
Total Charter Schools Located in LEA	**17**	**4**	**4**

In correspondence to the Department dated September 2, 2003, NYSED stated its understanding is that the 34 C.F.R. § 300.241 requirement to treat charter schools the same as other public schools was intended to ensure that charter school students receive the same level of special education services and the same share of IDEA funds as other schools in the LEA. NYSED also stated that requiring the LEA's IEP team to determine the appropriate special education services to be provided to students enrolled in charter schools and non-charter schools ensures that LEAs

[7] We note that these regulations present a potential conflict with § 1111(b)(2)(K) of the NCLB, which states that accountability provisions shall be overseen for charter schools in accordance with State charter school law. The Improving America's Schools Act of 1994, which was in effect during our audit period, did not contain a similar provision.

serve the charter school students in the same manner as the other public school students. Additionally, if a charter school elects to have the LEA provide all special education services to enrolled students, the LEA retains and applies the IDEA, Part B funds to support the cost of services for charter school students, just as it does for other public school students. NYSED stated that, if a charter school chooses to provide some or all of the services mandated by the IEP team, the LEA is required to provide the charter school with IDEA funds in proportion to the level of services provided to the student by the charter school. NYSED asserted that this approach is consistent with the intent of 34 C.F.R. § 300.241.

Our audit addressed the allocation of IDEA, Part B funds only. We concluded that the special education arrangements at the charter schools located in the three LEAs we reviewed were consistent with State charter school law. We did not evaluate whether NYSED was correct in its interpretation of, or in compliance with, 34 C.F.R. § 300.241.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objectives were to determine whether NYSED and selected LEAs within the State of New York (1) provided new or expanding charter schools with timely and meaningful information about the ESEA Title I program and IDEA, Part B funding for which these schools might have been eligible and (2) had management controls that ensure charter schools, including new or expanding schools, were allocated the proportionate amount of Title I and IDEA, Part B funds for which these schools were eligible.[8] This report presents the results of our review covering the IDEA, Part B funds. The results of our review covering Title I funds are presented in a separate report issued under Control Number ED-OIG/A09D0014. Our review covered IDEA, Part B allocations for school years 2000-2001 and 2001-2002.

To address these objectives, we interviewed State officials and staff responsible for implementing the IDEA, Part B and charter schools programs in New York. We evaluated the information that the State provided to charter schools about accessing IDEA, Part B funds to determine whether the information was timely and meaningful. In addition, we assessed NYSED's procedures to determine whether management controls ensured that charter schools received the proportionate amount of IDEA, Part B funds for which these schools were eligible. We also interviewed administrators at 31 charter schools about their experiences in accessing IDEA, Part B funds, including the timeliness and meaningfulness of provided information.[9]

To evaluate LEA procedures, we selected the three LEAs that had more than one charter school located within their boundaries. These LEAs were the New York City Department of Education, Buffalo City School District, and Rochester City School District. At each LEA, we reviewed procedures and interviewed staff responsible for providing information and allocating IDEA, Part B funds to charter schools. We reviewed the information the LEAs provided to charter schools to assess the information's timeliness and meaningfulness. To determine the accuracy and timeliness of charter school allocations, we reviewed the LEA's IDEA, Part B allocation

[8] The Education of Disadvantaged Children formula grant program is authorized under the ESEA, Title I, Part A.

[9] One of the 32 schools operating in school year 2001-2002 was no longer open at the time of our audit.

process and decisions. Since our review was limited to the three LEAs, we did not project our findings to the universe of LEAs across the State.

We performed our fieldwork at NYSED and LEA offices in Albany, New York City, Buffalo, and Rochester, New York, from September 2002, to January 2003. We held an exit briefing with NYSED officials on March 3, 2003. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described.

STATEMENT ON MANAGEMENT CONTROLS

We assessed the system of management controls, policies, procedures, and practices applicable to NYSED's and the three selected LEAs' processes for allocating IDEA, Part B funds to charter schools. We performed our assessment to determine whether the processes used by NYSED and the three LEAs provided a reasonable level of assurance that charter schools received needed information and were allocated the proportionate amount of IDEA, Part B funds for which these charter schools were eligible.

For the purpose of this report, we assessed and classified significant controls into the following categories—

- Dissemination of information
- Allocation of IDEA, Part B funds

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, we identified NYSED and LEA management control weaknesses that adversely affected charter schools' receipt of IDEA, Part B funds. NYSED weaknesses included the lack of monitoring to ensure LEAs complied with applicable State and Federal laws, regulations, policies, and procedures. LEA weaknesses included the lack of written procedures and guidance to charter schools on data submission requirements and LEA allocation processes at two LEAs, lack of documentation to support an allocation determination at one LEA, allocation of a disproportionate amount of IDEA, Part B funds by two LEAs, and untimely access to IDEA, Part B funds.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvement, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Departmental official, who will consider them before taking final action on this audit—

Robert H. Pasternack
Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20202

It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions under the Act.

Sincerely,

Gloria Pilotti

Gloria Pilotti
Regional Inspector General for Audit

Attachment

Electronic cc: Jonathan Gyurko, New York City Department of Education
Marion Cañedo, Buffalo City School District
Manual J. Rivera, Rochester City School District

ATTACHMENT

NYSED COMMENTS ON THE DRAFT REPORT

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

CHIEF OPERATING OFFICER
Tel. (518) 474-2547
Fax (518) 473-2827
E-mail: rcate@mail.nysed.gov

August 5, 2003

Ms. Gloria Pilotti
Regional Inspector General for Audit
U.S. Department of Education
Office of the Inspector General
501 I Street, Suite 9-200
Sacramento, CA 95814

Control number: ED-01G/A09-C0025

Dear Ms. Pilotti:

I am responding to your letter of July 7, 2003 regarding the draft audit report entitled *Charter Schools Access to IDEA, Part B Funds in the State of New York.* Our comments on the findings and the recommendations are listed below.

Finding – NYSED Needs to Take Additional Steps to Ensure that Charter Schools Receive Proportionate and Timely Access to IDEA, Part B Funds.

Finding, Subpart 1

NYSED is Responsible for Ensuring that LEAs Comply with the IDEA and ESEA.

Finding, Subpart 2

LEA Administration of IDEA, Part B Funds Must Be Consistent with State Policies and Procedures for IDEA, Part B Funds and Comply with the ESEA.

Finding, Subpart 3

New York City SD and Buffalo City SD Did Not Provide Sufficient Information to Charter Schools on Accessing IDEA, Part B Funds.

Finding, Subpart 4

Buffalo City SD and Rochester City SD Each Did Not Allocate Proportionate Amount of IDEA, Part B Funds to a Charter School in School Year 2001-2002.

Finding, Subpart 5

All Three LEAs Did Not Always Provide IDEA, Part B Funds to New or Expanding Charter Schools Within Five Months.

Finding, Subpart 6

NYSED Incrementally Provided Guidance for LEA Allocations, But Did Not Monitor for Compliance.

We agree with the overall finding and its subparts.

Recommendation 1.1

Ensure LEAs provide meaningful information to charter schools, including new or expanding charter schools, about the LEA procedures for allocating IDEA, Part B funds and data submission requirements. In addition, the LEAs should take steps to ensure charter schools understand their responsibilities and the steps they need to take to access these funds.

We agree in part with the recommendation.

The Department has taken and will continue to take steps to help ensure that LEAs meet their responsibilities towards charter schools. For example, the Department provides technical information to the charter schools on the Department's website and in correspondence. The Department will also send each charter school and school district a guidance letter relating to their responsibilities in regard to IDEA funds in the 2003-04 school year.

The Department conducts monitoring visits of all charter schools in their third year of operation. As part of this monitoring process, we will ensure that the charter schools have been provided meaningful information from the LEAs about the LEA procedures for allocating IDEA, Part B funds and data submission requirements. In addition, we will determine whether the charter schools understand their responsibilities and the steps they need to take to access these funds.

The Department also conducts audits, technical assistance and monitoring visits to LEAs. As part of this process, we will review the LEAs' adherence to requirements for allocating IDEA, Part B funds to charter schools.

Recommendation 1.2

Ensure LEAs have written procedures for receiving complete student counts from charter schools and allocating a proportionate amount of IDEA, Part B funds to those schools. These procedures should include detection of allocation errors, retention of documentation supporting the IDEA, Part B allocation amounts, and the use of current-year student counts for calculating IDEA, Part B allocations for charter schools that have significantly expanded enrollment.

We agree in part with the recommendation.

See response to **Recommendation 1.1**.

Recommendation 1.3

Ensure that the Charter School for Applied Technologies and the Eugenio Maria de Hostos Charter School receive the additional $11,703 and $805 in IDEA, Part B funds, respectively, for which these schools were eligible.

We agree with the recommendation.

The Department will ensure that the LEAs make the appropriate payments to the charter schools.

Recommendation 1.4

Ensure LEAs modify their procedures, as needed, to make certain eligible new or expanding charter schools are allocated IDEA, Part B funds within five months of their opening or expansion.

We agree in part with the recommendation.

See response to **Recommendation 1.1**.

Recommendation 1.5

Include in its technical assistance and monitoring reviews LEAs' adherence to written procedures related to allocating IDEA, Part B funds to charter schools.

We agree with the recommendation.

See response to **Recommendation 1.1**.

If you have any questions, contact Rosemary E. Johnson at (518) 486-4038.

Sincerely,

Richard H. Cate

cc: Rosemary E. Johnson