



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

FEB 06 2007

Leigh Manasevit
Brustein and Manasevit
Attorneys at Law
3105 South Street, NW
Washington, DC 20007

FEB 1 2007

FILE

Dear Mr. Manasevit:

This is in response to your letter to former Assistant Secretary Henry Johnson seeking clarification of a local educational agency's (LEA) obligation to pay for transportation costs when implementing the public school choice requirements of Title I of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act. Specifically, you asked whether an LEA is required to continue to pay for transportation in the case of a student who enrolled in a school as a choice option under Title I, Part A, that subsequently becomes identified for improvement, but the student's family wants the student to continue to attend the school that is now identified for improvement.

Section 1116(b)(1)(E) of Title I requires an LEA to provide to all students enrolled in a school identified for improvement the option to transfer to another public school, including a charter school, that has not been identified for improvement. Section 200.44 of the Title I regulations specifies that schools to which students may transfer may not include schools identified for improvement, corrective action or restructuring. In the scenario you have outlined, the LEA would have to offer the student attending a school of choice that is now identified for improvement the option to attend one or more other public schools not identified for improvement. Transportation would have to be provided to that school consistent with the statute.

In a case where (1) the school of choice is subsequently identified for improvement, and (2) the student's family declines the opportunity to enroll their child in a school not identified for improvement preferring that the child continue to attend the original school of choice, the LEA may continue to provide transportation for the student to attend the school of choice that is now identified for improvement. However, paying for transportation in this specific situation is not required as the school the student would be attending no longer meets the statutory and regulatory requirements to be a choice option under Title I.

Sincerely,

Jacquelyn C. Jackson, Ed.D.

Director

Student Achievement and

School Accountability Programs

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

www.ed.gov