DATE: 7/24/2018

MEMORANDUM

TO: District Superintendents and State-Approved Directors of Special Education

FROM: Heather Calomese, Executive Director of Special Education Services

SUBJECT: Procedural Change in Allocating IDEA Flow-Through and Preschool Funds

The Illinois State Board of Education (ISBE) currently allocates federal Individuals with Disabilities Education Act (IDEA) flow-through and preschool grant funds to state-authorized charter schools, special education cooperatives, and school districts that are not members of special education cooperatives. Those entities are considered subrecipients of federal IDEA funds.

Staff from the U.S. Department of Education’s Office of Special Education Programs (OSEP) indicated during a September 2016 on-site monitoring visit that IDEA subrecipients cannot subgrant IDEA grant funds and referenced the advisory information in a communique known as the Hokenson Letter. OSEP wrote in 2009 to Carol Hokenson, the program finance director for the Minnesota Department of Education, and stated that a State Education Agency (SEA) may subgrant Part B funds to Local Education Agencies (LEAs) or an entity that meets the federal definition for an LEA (which can include cooperatives, a school district that is not part of a cooperative, or a charter school). These entities, however, as subgrantees cannot engage in any additional subgranting of IDEA Part B funds beyond the initial subgrant issued by the SEA.

ISBE sought further written clarification, specifically asking how the Hokenson Letter applies to Illinois. OSEP stated that the concepts of the letter apply to all states with educational service agencies, which are comparable to Illinois special education cooperatives, that receive IDEA subgrants. The Hokenson Letter addresses the prohibition of subgranting and the definition and responsibilities of an LEA. Further, subgranting of a subgrant has not been allowable, according to OSEP’s long-standing interpretation of IDEA regulations, unless there was statutory language that explicitly authorized it. As such, the additional subgrant beyond the first -- the one from the SEA to its recipient -- is impermissible.

ISBE has completed a thorough review of the IDEA allocations and current subrecipient procedures in comparison to the guidance provided in the Hokenson Letter. SEAs flow the IDEA funds to LEAs, which are then responsible for providing a free appropriate public education (FAPE) to IDEA-eligible students. Subgranting by IDEA subrecipients is not allowed; however, contracting for services with cooperatives or other districts is an allowable use of IDEA grant funds.
ISBE calculates and allocates the IDEA flow-through and preschool grant funds based on each district's student population and poverty rate. It is ISBE's expectation that the federal funds will be used to serve the students who generated those funds. The structure-for-service provision varies in each Illinois special education cooperative, but LEAs are responsible for providing FAPE to students with disabilities. The Hokenson Letter puts the LEA responsibility for providing FAPE on the entity that receives the IDEA allocation and allows for discretion in how the funds are distributed and expended.

As the SEA that receives the IDEA funds, ISBE is responsible for monitoring the use of IDEA funds and the general supervision that pertains to an LEA's provision of FAPE (e.g., State Performance Plan; LEA determinations; due process, complaint, and mediation systems; etc.). ISBE has made a careful review and determined that procedural changes are necessary to the IDEA grant allocation process to ensure compliance with all federal regulations. The procedural changes are specific to the distribution of IDEA flow-through and preschool grant funds, which will be subgranted directly to individual LEAs instead of special education cooperatives. The calculation for allocating the funds is not changing. Special education cooperatives in Illinois are vital to many local school districts in the provision of special education services to students with disabilities. The procedural change in funding distribution does not prohibit the use of special education cooperatives in providing special education and related services to IDEA-eligible students.

This change in the distribution of IDEA flow-through and preschool funds will take place in fiscal year 2020. You will find additional resources attached regarding this transition, including a timeline for implementation along with a Question-and-Answer document. Questions about the new distribution process or the transition can be directed to IDEA Grant Coordinators Tammy Greco or Felicia Malloy by phone at (217) 782-5589 or by email at tgreco@isbe.net and fmalloy@isbe.net.