



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

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TO: District Superintendents
Superintendents of Public Schools

FROM: John B. King, Senior Deputy Commissioner for P-12 Education

John B. King
Erin M. O'Grady-Parent, Acting Counsel and Deputy Commissioner for Legal Affairs
Erin M. O'Grady-Parent

SUBJECT: Q and A related to Contracts for Instruction

The Department issued a July 29, 2009 memorandum on contracts for instruction, in which it stated that school districts cannot contract with private entities to deliver "core educational programming/instructional services" to students.

Since that time, the Department has received questions from the field as to the applicability of the memorandum to specific types of instruction and programming.

The attached Q & A document is intended to provide guidance to the field based on currently existing statutory and case law. It is not intended to be an exhaustive analysis, nor is it intended to cover every possible situation and/or educational program in which contracts may be contemplated. Please note that some of the issues discussed in the document have not yet been addressed in Commissioner's decisions or court cases and situations may arise that will require more fact-specific analyses.

We encourage school districts to use this Q & A document as a resource as they continue to plan for the upcoming school year. School districts are further advised to review all contractual or informal arrangements with their school attorneys to ensure that they are in compliance with the law. If, based on this Q & A document, districts have questions regarding any specific contracts or agreements, they should consult with their school attorneys.

Att.