



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 30 2008

Honorable Lyonel Tracy  
Commissioner of Education  
New Hampshire Department of Education  
101 Pleasant Street  
Concord, New Hampshire 03301-3860

Dear Commissioner Tracy:

This is to inform you that we have conditionally approved New Hampshire's application for Federal Fiscal Year (FFY) 2008 under Part B of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of your application submitted by the New Hampshire Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP) on May 20, 2008, and amended on June 17, 2008, including assurances provided in Section II, and incorporated by reference to this letter as noted in Enclosure A.

OSEP conditionally approved New Hampshire's FFY 2007 grant based on the State's assurances that it would:

- (1) Throughout the period of the State's grant awards for fiscal year 2007 under Part B of the IDEA, ensure that all public agencies in the State that provide special education and related services to children with disabilities will comply with all of the requirements of Parts A and B of IDEA and its implementing regulations;
- (2) Make required changes to its statutes, regulations, policies and procedures necessary to make them consistent with the following requirements of the IDEA and its implementing regulations in 34 CFR Part 300 and provide the Secretary with a copy of the revised documents showing these changes: 34 CFR §300.102(a)(2)(ii)(A)-(B), 34 CFR §300.501(b) and (c), 34 CFR §§300.300(a)(3)(i), 300.300(b)(3), and 300.300(c)(1)(ii), 34 CFR §§300.512(a)(4) and 300.512(c)(3), 34 CFR §300.519(a)(1), 34 CFR §300.119, and 34 CFR §300.154(d)-(h); and
- (3) Provide OSEP with a copy of a memorandum notifying all public agencies in the State of the changes to the State's eligibility documents that were required by OSEP and affect the public agencies' provision of special education and related services under Part B.

The New Hampshire State Board of Education made the required changes to its regulations effective June 30, 2008, with the exception of changes necessary to be consistent with 34 CFR §§300.300(a)(3)(i), 300.300(b)(3), and 300.300(c)(1)(ii). In addition, the State has not yet provided OSEP with the documentation required under paragraph 3 above.

By letter dated June 17, 2008, the State provided specific assurances that it will:

- (1) As soon as possible, but no later than June 30, 2009, make all of the changes to its statutes, regulations, policies and procedures that are necessary to make them consistent with the following requirements of the IDEA and its implementing regulations in 34 CFR Part 300, and will provide the Secretary with a copy of the revised documents showing those changes: 34 CFR §§300.300(a)(3)(i), 300.300(b)(3), and 300.300(c)(1)(ii);

- (2) Throughout the period of the State's grant awards for fiscal year 2008 under Part B of the IDEA, ensure that all public agencies in the State that provide special education and related services to children with disabilities will comply with all of the requirements of Parts A and B of IDEA and its implementing regulations; and
- (3) Provide OSEP with a copy of a memorandum notifying all public agencies in the State of the changes to the State's eligibility documents that were required by OSEP and affect the public agencies' provision of special education and related services under Part B.

Enclosed are grant awards for funds currently available under the Department of Education Appropriations Act, 2008 for the Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are for use primarily in school year 2008-2009 and are available for obligation by States from July 1, 2008 through September 30, 2010.

Please note that as part of your application for FFY 2008, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. Any changes made by the State, after OSEP approval, to information that is a part of a State's application, must meet the public participation requirements in 34 CFR §300.165.

The amount in your award for Section 619 represents the full amount of funds to which you are entitled. However, the amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2008. Of the \$10,947,511,571 appropriated for Section 611 in FFY 2008, \$4,091,067,571 is available for awards on July 1, 2008, and \$6,856,444,000 will be available on October 1, 2008.

Under the Section 611 formula, subject to certain maximum and minimum funding requirements, State allocations are based on the amount that each State received from FFY 1999 funds, the general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities. At the level of the decrease in the appropriation for the Preschool Grant program compared to that for prior years, each State is first allocated the amount it received for FFY 1997. The remaining funds are allocated based on the relative amount of the increase in funding that the State received between FFYs 1997 and 2007, as compared to the total of such increases for all States.

Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

Enclosure C provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure C shows State-by-State funding levels for distribution of Section 619 funds.

Section 611(e)(1)(C) of the IDEA provides that "[p]rior to expenditure of funds under this paragraph [section 611(e)(1) concerning funds for State administration], the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current." We read this provision to mean that if a State does not have interagency agreements or other arrangements in place to establish responsibility for the

provision of services, the State may not expend funds available to the State under section 611(e)(1) [State administration funds] until the State has these agreements or arrangements in place.

Under section 608(a)(2) of the IDEA, each State that receives funds under Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations and policies that it was required to submit to the Department in Section IV of its Part B application for this purpose.

The enclosed grant award for FFY 2008 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part B.

Section 605 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant a State is expressly agreeing as a condition of IDEA funding to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,



William W. Knudsen  
Acting Director  
Office of Special Education Programs

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C

cc: State Director of Special Education