



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

JUL 11 2005

Honorable Susan T. Zelman
Superintendent of Public Instruction
Ohio Department of Education
25 South Front Street, Mail Stop 70
Columbus, Ohio 43215-4183

Dear Superintendent Zelman:

This is to inform you that we have conditionally approved Ohio's Eligibility Documents, including assurances and certifications, for Federal Fiscal Year (FFY) 2005 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for conditional approval is based on our receipt of the State's application submitted by Ohio to the U.S. Department of Education, Office of Special Education Programs (OSEP) on May 9, 2005 and amended on June 17, 2005 (Use of Funds) and July 6, 2005 (Conditional Approval Statement), in which it assures that it will:

1. Operate consistent with all requirements of PL 108-446 and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of Part B of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. Section II of the State's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend policies and procedures and the timelines by which the State will amend its policies and procedures in order to comply with Part B of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies and procedures that are not yet in compliance with the requirements of Part B of the IDEA, as amended.

Our determination that you are eligible for a conditional approval is also based on our receipt of the June 30, 2005 letter from the Ohio Department of Education (ODE) to OSEP, in which ODE assures that:

1. As soon as possible or not later than July 1, 2006, Ohio will make all of the changes to its statutes, regulations, policies and procedures, as specified in the memorandum from Margaret Romer to Mike Armstrong and attached issues chart, dated June 30, 2005, that are necessary to make them consistent with the following requirements of the Individuals with Disabilities Education Act (IDEA) 2004 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 §§300.121(c); 300.504(a)(2); and 300.506(d);
2. Throughout the period of the State's grant awards for FFY 2005 under Part B of the IDEA 2004, 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 Part B of IDEA 2004; and

3. It will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact their provision of special education and related services required by OSEP as a result of its review of the State's Eligibility Documents.

The Ohio FFY 2005 IDEA Part B grant awards are being released subject to FFY 2005 Special Conditions, as set forth in Enclosure D, that are being imposed pursuant to the Department's authority under 34 CFR §80.12. Specifically, OSEP found that the State is not ensuring that a free appropriate public education (FAPE) is available to each child with a disability entering the Part B program by the child's third birthday, including ensuring that an individualized education program (IEP) or, if appropriate, an individualized family service plan (IFSP) is in effect by the child's third birthday, as required by 34 CFR §300.121(c) and 20 U.S.C. 1412(a)(1). The reasons for doing so and the specific conditions are detailed in the Enclosure. Ohio must administer these awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document. Acceptance by Ohio of these grant awards constitutes an agreement by the State to comply with the Special Conditions.

Please note that as part of your Eligibility Documents for FFY 2005, your State has made an assurance, under 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 policies and procedures needed to comply with Part B of the IDEA, must meet the applicable public participation requirements, including those in 20 U.S.C. 1232d(b)(7).

Enclosed are grant awards for funds currently available under the Department of Education FFY 2005 Appropriations Act for the Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are for use primarily in school year 2005-2006 and are available for obligation by States from July 1, 2005 through September 30, 2007.

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 2005. Of the \$10,589,745,824 appropriated for Section 611 in FFY 2005, \$5,176,745,824 is available for awards on July 1, 2005, and \$5,413,000,000 will be available on October 1, 2005.

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. Section 619 funds are allocated to States subject to certain maximum and minimum funding requirements, based on the amount that

each State received from FFY 1997 funds, the general population of children age 3 to 5, and the number of children living in poverty in the age range 3 to 5.

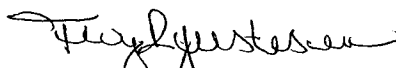
Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations. Table II in Enclosure B shows your State-specific information for within-State distribution of 611 funds based on your State's application. If you disagree with the information in Enclosure B Table II, notify your State contact immediately.

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

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

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

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education
Programs

Enclosures

cc: Mike Armstrong