



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

JUL - 1 2005

Dr. Jo Lynne DeMary  
Superintendent of Public Instruction  
Commonwealth of Virginia  
Department of Education  
101 North 14<sup>th</sup> Street, 25<sup>th</sup> Floor  
P.O. Box 2120  
Richmond, Virginia 23218-2120

Dear Superintendent DeMary:

This is to inform you that we have conditionally approved Virginia'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 the Virginia Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 6, 2005, and amended on June 22, 2005 (Use of Funds), 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. 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.

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.

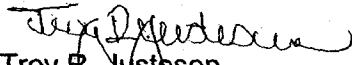
Enclosure C provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table III in Enclosure C shows State-by-State funding levels for distribution of Section 619 funds.

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.

Our records show that for the last four Part B grants under section 611 (and section 619) for which the obligation and liquidation period has ended (grants from FFYs 1999 through 2002), the State has failed to spend a significant portion of its grant award. As noted in the January 2005 communication to Chief State School Officers from former Deputy Secretary Eugene Hickok, "Your vigilance is crucial to ensuring that all federal funds under your management are used to help America's neediest children do well in the classroom..." We urge you to take the steps necessary to ensure that the State fully expends the available funds in the attached FFY 2005 Part B grant awards to meet the needs of the State's children with disabilities. If by July 1, 2006 you anticipate that the State will not be able to obligate all of the funds from the FFY 2005 grant awards by September 30, 2007, please notify OSEP immediately of the amount that the State will not be using to carry out the Part B program so that we can reallocate the remaining funds to other States for use in better serving children with disabilities.

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: H. Douglas Cox, assistant superintendent  
Division of Special Education and Student Services