



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

JUL - 1 2005

Honorable Richard Cate  
Commissioner of Education  
Vermont State Department of Education  
120 State Street  
Montpelier, Vermont 05620-2500

Dear Commissioner Cate:

This is to inform you that we have conditionally approved Vermont'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 Vermont Department of Education (VDE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 10, 2005 and amended on June 1, 2005 (Assurances) and June 23, 2005 (Submission Statement) and June 27, 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, 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.

In an April 29, 2004 letter, VDE assured OSEP that as soon as possible, but no later than July 1, 2005, the State would make any changes to its statutes, regulations, policies and procedures, as specified in the issues chart dated April 14, 2004, that were necessary to make them consistent with the following requirements of IDEA and its implementing regulations in 34 CFR Part 300, and would provide the Secretary with a copy of the revised documents showing those changes: 34 CFR §300.403(c) and §300.142. On June 21, 2005, VDE submitted documentation that it amended 16 V.S.A §2957(e) to meet the requirements of 34 CFR §300.403(c). On June 23, 2005, VDE submitted a revised, signed interagency agreement with the Vermont Agency of Human Services to meet the requirements of 34 CFR §300.142. The documentation submitted by VDE satisfies the conditions placed on the FFY 2004 grant award.

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

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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.

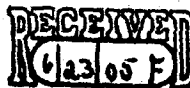
Sincerely,

  
Troy R. Justesen  
Acting Director  
Office of Special Education  
Programs

Enclosures

cc: Karin Edwards

## Enclosure A



State of Vermont

## Section I

## A. Submission Statement for Part B of IDEA

Please select and check the appropriate statement(s) the State is using for this Federal Fiscal Year.

1.  The State provides assurances that it has in effect policies and procedures to meet the eligibility requirements of Part B of the Act as found in PL 108-446. The State is able to meet all assurances found in Section II.A of this Application. (See Section IV, *Optional Technical Assistance Checklist*, which is provided to assist States in determining the disposition of policies and procedures.)
2.  The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)<sup>1</sup>
3.  The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

## B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement below:

1.  The State previously has submitted documentation of completion of all issues identified in the FFY 04 conditional approval letter.
2.  The State is attaching documentation of completion of all issues identified in the FFY 04 conditional approval letter. (*Attach documentation showing completion of all issues.*)
3.  The State has not completed all issues identified in the FFY 04 conditional approval letter. (*Attach documentation showing completion of any issues and a list of items not yet completed.*)

<sup>1</sup> A State will be granted conditional approval until it can provide all assurances.