



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

JUL 3 2006

Honorable Tom Horne
Superintendent of Public Instruction
Arizona Department of Education
1535 West Jefferson Street, Bin 2
Phoenix, Arizona 85007-3280

Dear Superintendent Horne:

This is to inform you that the amendments to your State's application for Federal Fiscal Year (FFY) 2006 funds, under Part B of the Individuals with Disabilities Education Act (Part B), can be approved. The approval is based on our review and acceptance of the assurances submitted by Arizona to the Office of Special Education Programs (OSEP) on April 18, 2006, and amended on May 9, 2006.

In OSEP's March 15, 2006 letter responding to Arizona's State Performance Plan, OSEP identified continued noncompliance with the requirement to issue complaint decisions within 60 days or a timeline that was extended due to exceptional circumstances respect to a particular complaint. OSEP's letter informed the State if it was unable to demonstrate compliance by June 1, 2006 that this could impact its FFY 2006 grant award. Arizona submitted two progress reports to address this issue. One report, on March 31, 2006, indicated 94% compliance with the requirements, at 34 CFR §300.661, for timely complaint resolution. The second report, on May 18, 2006, indicated 97% compliance with the requirements at 34 CFR §300.511 regarding timely due process hearing decisions. OSEP looks forward to the State's continued reporting on its progress toward compliance with these requirements to be submitted with the FFY 2005 Annual Performance Report, due February 1, 2007.

Enclosed are grant awards for funds currently available under the Department of Education FFY 2006 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 2006-2007 and are available for obligation by States from July 1, 2006 through September 30, 2008.

Please note that as part of your Eligibility Documents for FFY 2006, 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 information that is a part of a State's eligibility documentation, must meet the public participation requirements of IDEA and must be approved by OSEP before implementation.

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 2006. Of the \$10,582,960,540 appropriated

for Section 611 in FFY 2006, \$5,158,760,540 is available for awards on July 1, 2006, and \$5,424,200,000 will be available on October 1, 2006.

For FFY 2006, the final appropriations for the Grants to States program and the Preschool Grants program represent a slight decrease below the amounts for FFY 2005. The IDEA specifies how funds are allocated under these programs when the amounts appropriated are less than for the prior Federal fiscal year. At the level of decrease for the Grants to States program, each State is first allocated the amount it received for FFY 1999. The remaining funds are allocated based on the relative amount of the increase in funding that the State received between FFYs 1999 and 2005, as compared to the total of such increases for all States. At the level of decrease for the Preschool Grants program, 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 2005, 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. 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 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) 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 (20 U.S.C. 1407(a)(2)). 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.

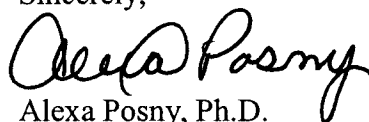
The enclosed grant award for FFY 2006 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part B.

Section 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." Section 606 provides that each recipient of assistance under IDEA make positive

efforts to employ and advance in employment qualified individuals with disabilities. Therefore, by accepting this grant a State is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Posny". The signature is fluid and cursive, written over the printed name.

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

Enclosure C

cc: Joanne Phillips

Director of Special Education