



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

JUL 11 2006

Honorable Clifford B. Janey, Ed.D.  
Superintendent  
District of Columbia Public Schools  
825 North Capitol Street, 9<sup>th</sup> Floor  
Washington, DC 20002

Dear Superintendent Janey:

This is to inform you that we have conditionally approved the District of Columbia's Eligibility Documents, including assurances and certifications, for Federal Fiscal Year (FFY) 2006 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 District of Columbia Public Schools (DCPS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 21, 2006 in which it assures that it will:

1. Operate consistent with the Part B 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, 2007. 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.

As set forth in Enclosure D, on June 28, 2006, under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department informed DCPS that due to problems in DCPS' fiscal and program accountability, management systems, and related areas, the Department has designated DCPS a "high-risk" grantee under all grants received from the Department. Therefore, the DCPS FFY 2006 IDEA Part B grant awards are being released subject to Department-wide FFY 2006 Special Conditions.

In addition to the Department-wide conditions, OSEP has determined that DCPS has failed to meet the four FFY 2005 Special Conditions contained in Enclosure E of DCPS' August 5, 2005 grant award letter. Specifically, DCPS has continued to fail to provide timely initial evaluations and reevaluations (section 614(a), (b), and (c) of the IDEA), to implement due process hearing decisions in a timely manner (section 615(f) and (i) of the IDEA), to ensure placement in the least restrictive environment (LRE) (section 612(a)(5)(A) of the IDEA), and to identify and correct noncompliance as required under section 612(a)(11) of the IDEA. As a result, the Department is imposing Special Conditions on the State's FFY 2006 grant awards under Part B,

pursuant to the Department's authority in 34 CFR §80.12. The reasons for doing so and the specific conditions are detailed in Enclosure E. DCPS 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 DCPS of these grant awards constitutes an agreement by the State to comply with the Special Conditions.

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 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).

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.

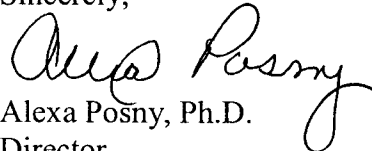
Under section 608(a) of the IDEA, each State that receives funds under Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations (20 U.S.C. 1407(a)(2)). A State may use the 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,



Alexa Posny, Ph.D.  
Director  
Office of Special Education  
Programs

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C
- Enclosure D
- Enclosure E

cc:

Mary Lee Phelps  
Acting Director of Special Education