



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

JUL 1 2008

Honorable Jack O'Connell  
Superintendent of Public Instruction  
California Department of Education  
1430 N Street, Suite 5602  
Sacramento, CA 95814

Honorable James E. Tilton  
Secretary  
California Department of Corrections and Rehabilitation  
1515 S Street, Suite 502 S  
Sacramento, CA 95814

Dear Superintendent O'Connell and Secretary Tilton:

This is to inform you that we have conditionally approved California's application for Federal Fiscal Year (FFY) 2008 under Part B of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of your application submitted by the California Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP), and received on May 16, May 20, and June 27, 2008, including assurances provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided specific assurances that it will:

1. Operate consistent with the applicable Part B 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 June 30, 2009. Section II of the State's application 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.

OSEP notes that in the cover letter to its application, the State reported that there is pending legislation to address issues related to consent under the Family Educational Rights and Privacy Act (FERPA), i.e., language to revise Sections 49075 and 49076.5 of the California Education Code. These outstanding issues are specific to FERPA, which is administered by the Department's Family Policy Compliance Office (FPCO). Because the State has written directly to FPCO, OSEP is deferring to FPCO on the outstanding FERPA issues and has asked that staff in that office provide the State with any needed technical assistance related to the proposed legislation. OSEP staff will remain available to confer with FPCO, if needed to facilitate final resolution of this matter.

Enclosed are grant awards for funds currently available under the Department of Education Appropriations Act, 2008 for the Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are for use primarily in school year 2008-2009 and are available for obligation by States from July 1, 2008 through September 30, 2010.

The California FFY 2008 IDEA Part B grant awards are being released subject to FFY 2008 Special Conditions, as set forth in Enclosure D, that are being imposed pursuant to the Department's authority in 34 CFR §80.12. Specifically, OSEP determined that California is a high-risk grantee in regard to the provision of special education and related services to eligible individuals with disabilities who are convicted as adults and incarcerated in adult prisons.

Therefore, the Department is imposing Special Conditions on the State's FFY 2008 grant awards under Part B. The reasons for doing so and the specific conditions are detailed in the enclosure. California 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 California of these grant awards constitutes an agreement by the State to comply with the Special Conditions.

Please note that as part of your application for FFY 2008, your State has made an assurance, in 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 application, must meet the public participation requirements in 34 CFR §300.165.

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 2008. Of the \$10,947,511,571 appropriated for Section 611 in FFY 2008, \$4,091,067,571 is available for awards on July 1, 2008, and \$6,856,444,000 will be available on October 1, 2008.

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. At the level of the decrease in the appropriation for the Preschool Grant program compared to that for prior years, 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 2007, 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.

Enclosure C provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II 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)(2) 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. 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 2008 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 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant a State is expressly agreeing as a condition of IDEA funding to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

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

Sincerely,



William W. Knudsen  
Acting Director  
Office of Special Education Programs

Enclosures

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

cc: State Director of Special Education