



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

JUL 3 2008

Honorable Rafael Aragunde Torres
Secretary of Education
Puerto Rico Department of Education
PO Box 190759
San Juan, PR 00919-0759

Dear Secretary Aragunde:

This is to inform you that we have conditionally approved Puerto Rico'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 Puerto Rico Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP), and received on May 16, June 30, and July 1, 2008, including assurances provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided the following specific assurances:

1. Puerto Rico will operate consistent with the applicable Part B regulations; and
2. Puerto Rico will 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.
3. Throughout the period of fund availability for Puerto Rico's grant awards under Part B of the IDEA for federal fiscal year 2008, Puerto Rico assures that until such time as Puerto Rico has demonstrated to the United States Department of Education (Department) that it is in full compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a), for all transportation costs for students with disabilities in the Bayamon Region, no IDEA funds will be used to fund the transportation costs of students with disabilities in the Bayamon Region and that any Commonwealth funds used to fund the transportation costs of students with disabilities in the Bayamon Region will not be included in the total amount used to calculate or measure Puerto Rico's compliance with the State maintenance of effort requirement at 20 U.S.C. 1412(a)(18) and 34 CFR §300.163 in either the current federal fiscal year or the preceding federal fiscal years from 2002 to 2007.
4. PRDE will submit documentation to OSEP at least 60 days prior to any use, allocation, accounting or designation of IDEA Part B funds to pay for the transportation costs of students with disabilities in the Bayamon Region or of any use, allocation, accounting or designation to include Commonwealth funds used to pay the transportation costs of students with disabilities in the Bayamon Region in the total amount used to calculate or

measure Puerto Rico's compliance with the State maintenance of effort requirement at 20 U.S.C. 1412(a)(18) and 34 CFR §300.163. The documentation to be submitted must include an audit report that clearly demonstrates that PRDE is in full compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a) for all transportation costs of students with disabilities in the Bayamon Region.

5. The State will provide OSEP with a copy of the memorandum notifying the appropriate finance personnel in Puerto Rico and providing any needed instructions for implementation, so that funds received under Part B of the IDEA will not be used to fund transportation services of students with disabilities in the Bayamon Region until such time as Puerto Rico has submitted, and the Department has approved, documentation, including an audit report, demonstrating compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a) and that any Commonwealth funds used to pay the transportation costs of students with disabilities in the Bayamon Region may not be included in the total amount used to calculate or measure Puerto Rico's compliance with the State maintenance of effort requirements at 20 U.S.C. 1412(a)(18) and 34 CFR §300.163.

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.

Puerto Rico's FFY 2007 Part B grant awards were issued subject to programmatic Special Conditions related to the use, designation and accounting of transportation costs for students with disabilities in the Bayamon Educational Region; the elimination of the backlog of State complaints; and the timely processing of new State complaints consistent with 34 CFR §§300.151 - 300.153. These issues were incorporated into the December 17, 2007 Compliance Agreement between Puerto Rico and the Department. As noted above, Puerto Rico also has provided specific assurances relating to the Bayamon transportation costs for FFY 2008 Part B funds. Therefore, the FFY 2008 Part B grant awards do not contain these programmatic Special Conditions. OSEP also notes that on the issue of State complaints, Puerto Rico submitted a revised progress report on June 30, 2008, indicating that there is no longer a backlog of overdue State complaints and that for the 20 State complaints filed between December 1, 2007 and April 30, 2008 and for which a written decision was due, 95% of the decisions were timely. OSEP looks forward to Puerto Rico's demonstration of continued substantial compliance related to State complaints.

As set forth in Enclosure D, on June 11, 2008, the Department wrote Puerto Rico and indicated that the Department was imposing Special Conditions on all its grants to Puerto Rico based upon the lack of progress under the current Memorandum of Agreement and the 2007 Compliance Agreement. Therefore, the Puerto Rico FFY 2008 IDEA Part B grant awards are being released subject to Department-wide FFY 2008 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.

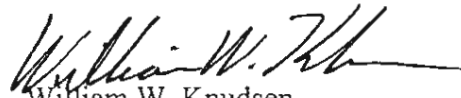
Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted

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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