

July 30, 2002

Honorable Paul L. Vance  
Superintendent of Schools  
District of Columbia Public Schools  
825 North Capitol Street, NE  
Washington, DC 20002

Dear Superintendent Vance:

This is to inform you that we have conditionally approved the District of Columbia Public School's (DCPS's) Eligibility Document Submission for Federal Fiscal Year (FFY) 2002 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by the District to the Office of Special Education Programs:

1. The Part B Eligibility Document Submission for FFY 2002 including the Eligibility Documents submitted June 21, 2001, subsequent revisions to those Eligibility Documents and the Submission Statement submitted May 24, 2002 and June 28, 2002; and
2. The June 28, 2002 letter from the District of Columbia Public Schools to OSEP, in which the District assures that as soon as possible, but no later than July 1, 2003, the District will finalize Chapter 30 of the District Code of Municipal Regulations.

In the June 28, 2002 letter, the District also assures that it will take steps to ensure that, throughout the period of this grant award, all public agencies that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B. The District further assures that it will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact on their provision of special education and related services that OSEP requires as a result of its review of the District's eligibility documents.

Please note that as part of your Eligibility Document Submission for FFY 2002, the District 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 District, after OSEP approval, to information that is a part of the District's Eligibility Document Submission, must meet the public participation requirements of the IDEA and must be approved by OSEP before implementation.

The District's FFY 2002 IDEA Part B grant award is being released subject to FFY 2002 Special Conditions as set forth in Enclosure C, that are being imposed pursuant to the Department's authority in 34 CFR §80.12. Specifically, OSEP determined that the District has not met all of the Special Conditions imposed as part of DCPS's FFY 2001 grant award, has not administered alternate assessments to all children with disabilities who cannot participate in District-wide assessments, and is not reporting on the participation and performance of children with disabilities in District-wide alternate assessments as required at 20 U.S.C. 1412(a)(16)-(17) and 34 CFR §§300.137-300.139.

DCPS has met the special conditions in two of the six areas of noncompliance identified in the FFY 2001 Special Conditions attached to DCPS's November 6, 2001 grant award letter: (1) ensuring that all children with disabilities receive the related services specified in their IEPs and (2) implementing secondary transition requirements applicable to students with disabilities beginning at age 14 (or younger, if determined appropriate).

OSEP has also determined that, by the end of the 2001 grant award year, DCPS has made progress in achieving compliance in four additional areas. However, the progress was insufficient to permit a finding of compliance with Part B. The areas in which progress has been made, and the remaining areas to be addressed, are as follows:

(1) (a) Timely Initial Evaluations and Placements

Full implementation of the Special Education Tracking System (SETS) allows specific tracking of all initial referrals to assist in focusing agency efforts. Reorganization of field staff in September of 2001 put in place 34 diagnostic teams, led by a Special Education Specialist (SES) coordinating the work of other personnel on the team and in the local school.

Taking into account an average of 200 referrals per month, DCPS, at the end of the final reporting period, identified 204 students as overdue for initial evaluation and placement. DCPS must ensure that an initial evaluation is completed for all children with disabilities, and an appropriate placement made, within the maximum number of days established by DCPS's policy (currently, 120 calendar days).

(b) Timely Reevaluations

The Special Education Tracking System (SETS) is used for tracking reevaluations as well as initial evaluations. In addition to the 34 diagnostic teams, three rapid response teams have been deployed to increase timely reevaluations for children attending nonpublic schools. Ongoing training is provided at the building level in an effort to more consistently and efficiently implement a successful reevaluation process. Training has been extended to nonpublic administrators.

At the end of the final reporting period, DCPS identified 757 students as overdue for reevaluation. DCPS must ensure that all reevaluations are conducted in a timely manner.

(2) Timely Implementation of Hearing Officer Determinations

DCPS handles more than 2000 hearing requests per year. During FY 2001, DCPS reports that 2035 requests for due process were filed, 119 were withdrawn before going to hearing, 1091 resulted in settlement agreements and 490 resulted in hearing officer decisions.

At the end of the final reporting period, DCPS identified 434 hearing decisions that had not been implemented within the time frame prescribed by the hearing officer. DCPS must ensure that all due process hearing determinations are implemented within the time line required by the hearing officer.

(3) Placement of Children with Disabilities in the Least Restrictive Environment

DCPS continues to establish new programs, and enhance existing programs, to meet the needs of children with disabilities who would otherwise be placed in nonpublic placements. Significant levels of ongoing training have been implemented for school based staff to support including children with disabilities in regular classrooms. DCPS has created inclusive preschool programs in eight elementary schools across the city and has committed to four new sites during the 2002-2003 school year. DCPS has incorporated a list of modifications and accommodations in the electronic IEP as well as in hard copy and provided training in the implementation of modifications and accommodations.

DCPS reports that it recognizes that it must continue to establish new programs throughout the system, enhance those already established, maintain and promote meaningful training and professional development and better coordinate efforts within central administration and on the ground at local schools. DCPS must ensure that all children with disabilities are placed in the least restrictive environment appropriate to their individual needs.

(4) Implementation of Surrogate Parent Procedures

DCPS has provided school-based training in the identification of children in need of surrogate parents. DCPS is in negotiation with the Child and Family Services Agency to incorporate training for potential surrogate parents in their existing training and is also in negotiations with Prince George's County Public Schools regarding reciprocity in the certification of surrogate parents because a large number of DCPS children with disabilities are in foster homes in Prince George's County.

DCPS reports that to date, there has been an underutilization of the surrogate parent procedures and only a "handful" of surrogate parents have been appointed. DCPS must

ensure that all children with disabilities who need a surrogate parent are identified and that a qualified surrogate parent is appointed to all children with disabilities who need one.

The Biennial Performance Report for Part B of the IDEA for grant years 1999-2000 and 2000-2001 was due on May 31, 2002. Among other information, the Biennial Performance Report required that States submit information regarding children with disabilities' participation in and performance on District-wide assessments. 34 CFR §300.138 requires that children with disabilities participate in general State and district-wide assessment programs with appropriate accommodations and modifications in administration, if necessary. In addition, States are required to develop alternate assessments for those children with disabilities who cannot participate in State and district-wide assessment programs, even with appropriate accommodations and modifications in administration. States also must report on the progress of children with disabilities in the State toward meeting the established performance goals and indicators for children with disabilities on assessment, dropout rates and graduate rates, at a minimum (34 CFR §300.137).

The requirements that States establish performance goals and indicators on performance of children with disabilities on assessments, dropout rates and graduation rates and report publicly and to the Secretary every two years on the progress of the State and of children with disabilities within the State toward meeting those goals, ensure that children with disabilities participate in State and district-wide assessment systems; develop and administer alternate assessments, if necessary; and report publicly on the participation and performance of children with disabilities in State and district-wide assessments are crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(16)-(17); 34 CFR §§300.137-300.139. The requirements regarding the participation of children with disabilities in, and reporting on participation and performance of children with disabilities in regular assessments have been in effect since July 1, 1998; the same requirements regarding alternate assessments have been in effect since July 1, 2000. The information reported to the Department in the District's Biennial Performance Report for the 2000-2001 school year demonstrates that the District is not conducting an alternate assessment for all children with disabilities who cannot participate in the District-wide assessment and is not reporting on the participation and performance of children with disabilities in alternate assessments in the same frequency and detail as for nondisabled children, as required by Part B.

The District's failure to complete all FFY 2001 Special Conditions, conduct an alternate assessment for all children with disabilities who cannot participate in the District-wide assessment, and report on the participation and performance of children with disabilities in alternate assessments in the same frequency and detail as for nondisabled children has resulted in the Department imposing the FFY 2002 Special Conditions contained in Enclosure C of this letter. The reasons for doing so and the specific conditions are detailed in the enclosure. The District must administer these grant awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document.

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Acceptance by the District of these grant awards constitutes an agreement by the State to comply with these Special Conditions.

Enclosed are grant awards for funds currently available under the Department of Education FFY 2002 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 2002-2003 and are available for obligation by States from July 1, 2002 through September 30, 2004.

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 2002. Of the \$7,528,533,000 appropriated for Section 611 in FFY 2002, \$2,456,533,000 is available for awards on July 1, 2002, and \$5,072,000,000 will be available on October 1, 2002.

The funding formula for the Section 611 program is the same as was implemented for FFY 2000. 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.

Enclosure A provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure A shows funding levels for distribution of Section 611 funds.

Enclosure B provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure B shows State-by-State funding levels for distribution of Section 619 funds.

These awards are based on submission of a complete eligibility document package, a signed assurance statement regarding finalizing Chapter 30 of the District Code of Municipal Regulations, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete eligibility document package and assurances must be made available for public inspection.

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

Sincerely,

Stephanie S. Lee  
Director  
Office of Special Education Programs

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Enclosures

cc: Anne Gay