

July 1, 2003

Honorable Gene Wilhoit  
Commissioner of Education  
Kentucky Department of Education  
Capitol Plaza Tower - 500 Mero Street  
Frankfort, Kentucky 40601

Dear Commissioner Wilhoit:

This is to inform you that we have conditionally approved Kentucky's Eligibility Document Submission for Federal Fiscal Year (FFY) 2003 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 Kentucky Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2003 including the Eligibility Documents submitted April 14, 2000, revisions to those Eligibility Documents and Submission Statement submitted May 24, 2002, and subsequent revisions to those Eligibility Documents and the Submission Statement submitted May 6, 2003; and
2. The June 26, 2003 letter from Kentucky to OSEP, in which Kentucky assures that as soon as possible, but no later than July 1, 2004, Kentucky will complete all of the changes set forth in the May 6, 2003 issues chart including: 300.125(c)(3); 300.139(a)(2)(ii); and 300.139(c)(1).

In the June 26, 2003 letter, Kentucky also assures that it will take steps to ensure that, throughout the period of this grant award, all public agencies in the State that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B. Kentucky further assures that it will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact on public agencies' provision of special education and related services that OSEP requires as a result of its review of the State's eligibility documents.

The Kentucky FFY 2003 IDEA Part B grant awards are being released subject to FFY 2003 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 Kentucky is not reporting publicly on the performance of children with disabilities in the alternate assessments, as required at 20 U.S.C. 1412(a)(17)(B) and 34 CFR §300.139(a)(2)(ii) and (c)(1).

The requirement that States report publicly on the participation and performance of children with disabilities in State and district-wide assessments is 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)(17); 34 CFR §300.139.

Your State's failure to report on the performance of children with disabilities in alternate assessments has resulted in the Department imposing the FFY 2003 Special Conditions contained in Enclosure C of this letter. The reasons for doing so and the specific conditions are detailed in the enclosure. Kentucky 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 Kentucky of these grant awards constitutes an agreement by the State to comply with these Special Conditions.

Please note that as part of your Eligibility Document Submission for FFY 2003, 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 the IDEA and must be approved by OSEP before implementation.

Enclosed are grant awards for funds currently available under the Department of Education FFY 2003 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 2003-2004 and are available for obligation by States from July 1, 2003 through September 30, 2005.

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 2003. Of the \$8,874,397,536 appropriated for Section 611 in FFY 2003, \$3,202,397,536 is available for awards on July 1, 2003, and \$5,672,000,000 will be available on October 1, 2003.

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.

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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 resolution of issues identified in OSEP's review of that eligibility document package, 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,

/s/Patricia J. Guard for

Stephanie S. Lee  
Director  
Office of Special Education Programs

Enclosures

cc: Ms. Judy Mallory  
Director  
Division of Exceptional Children