



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

JUL - 6 2004

Honorable Patricia Hamamoto
Superintendent of Education
Hawaii Department of Education
1390 Miller Street, #307
Honolulu, Hawaii 96813

Dear Superintendent Hamamoto:

This is to inform you that we have conditionally approved Hawaii's Eligibility Documents for Federal Fiscal Year (FFY) 2004 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 Hawaii Department of Education (HIDOE) to the U.S. Department of Education, Office of Special Education Programs (OSEP):

1. The Part B Eligibility Documents for FFY 2004 including the Eligibility Documents submitted May 11, 2000, and subsequent revisions to those Eligibility Documents and the Submission Statement submitted April 8, 2004; and
2. The signed assurance statement from Hawaii to OSEP, dated June 30, 2004 in which Hawaii assures that as soon as possible, but no later than July 1, 2005, Hawaii will complete all of the changes set forth in the June 2, 2004 issues chart including: 34 CFR §§ 300.136(c) and (g).

In that document, Hawaii 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. Hawaii further assures that it will provide OSEP with a copy of a memorandum notifying all public agencies of changes that impact on their provision of special education and related services that are required by OSEP as a result of its review of the State's Eligibility Documents.

As determined during OSEP's September 2003 verification visit to your State, and as set out in OSEP's March 31, 2004 letter, Hawaii's practice of using only one performance level indicator to report on the performance of all students with disabilities who take the alternate assessment is inconsistent with the requirements of 34 CFR §§300.137 and 300.139. The State did not adequately address this issue in its April 27, 2004 Annual Performance Report submission. Therefore, OSEP is imposing Special Conditions on Hawaii's FFY 2004 IDEA Part B grant awards, pursuant to the Department's authority at 34 CFR §80.12. A detailed explanation, including the specific bases for, and terms of, the Special Conditions, is set out in Attachment C.

Please note that as part of your Eligibility Documents for FFY 2004, 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 IDEA and must be approved by OSEP before implementation.

Enclosed are grant awards for funds currently available under the Department of Education FFY 2004 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 2004-2005 and are available for obligation by States from July 1, 2004 through September 30, 2006.

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 2004. Of the \$10,068,106,452 appropriated for Section 611 in FFY 2004, \$4,655,106,452 is available for awards on July 1, 2004, and \$5,413,000,000 will be available on October 1, 2004.

The funding formula under Section 611 is the same as the formula 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.

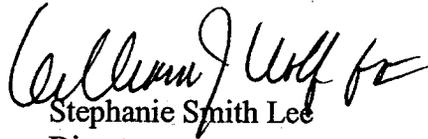
These awards are based on submission of a complete Eligibility Document, a signed assurance statement regarding resolution of issues identified in OSEP's review of the Eligibility Documents, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete Eligibility Document and assurances must be made available for public inspection.

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." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Smith Lee", written in a cursive style.

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosures

cc: Dr. Paul Ban