

Archived Information



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

SEP 23 2004

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 approved Kentucky's Eligibility Documents for Federal Fiscal Year (FFY) 2004 under Part B of the Individuals with Disabilities Education Act (IDEA). Our approval is based on our review and acceptance of the documents submitted by Kentucky to the Office of Special Education Programs (OSEP) on April 5 and 30, 2004 in response to OSEP's May 23, 2003 issues chart.

Your State's failure to report on the performance of children with disabilities in alternate assessments resulted in the Department imposing the FFY 2003 Special Conditions contained in Enclosure C of that letter. Because Kentucky did not completely meet those Special Conditions, and has not yet reported to the Secretary and the public on the participation and performance of children with disabilities in alternate assessments other than at the State level (the State has provided the Department with documentation that it has reported publicly on the participation and performance of children with disabilities in alternate assessments at the State level), and Kentucky has failed to provide an alternate assessment for those children with disabilities who are unable to take the norm referenced test (NRT), the Department is imposing Special Conditions on the State's FFY 2004 grant awards under Part B. The reasons for doing so and the specific conditions are detailed in Enclosure C. 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 the Special Conditions.

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.

Page 2 – Honorable Gene Wilhoit

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. The complete Eligibility Document 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.

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

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosures

cc: Judy Mallory