

Archived Information



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

JUL - 1 2004

Honorable Susan A. Gendron
Commissioner of Education
Maine Department of Education
23 State House Station
Augusta, Maine 04333-0023

Dear Commissioner Gendron:

This is to inform you that we have conditionally approved Maine's Eligibility Documents for Federal Fiscal Year (FFY) 2004 under Part B of the Individuals with Disabilities Education Act (IDEA).

Your July 1, 2003 grant award under Part B of the IDEA was issued with Special Conditions requiring you to report publicly and to the Secretary on the performance of children with disabilities on alternate assessments, by November 15, 2003. The documentation that the State submitted by letter of April 8, 2004, and by-email messages on April 26 and June 14, 2004 (from Joanne C. Holmes to Samara Goodman), satisfies the requirements of the Special Conditions.¹ We appreciate your submission of information demonstrating your compliance with these important requirements.

The State's eligibility documentation for FFY 2003 was conditionally approved. We have reviewed the documents submitted by Maine to the Office of Special Education Programs (OSEP) on March 22, 2004, and determined that they meet the conditions placed on the State's FFY 2003 grant award. As set forth below, however, OSEP is conditionally approving the State's FFY 2004 eligibility documentation, with a new condition that the State must meet.

Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by the Maine Department of Education (MDOE) to OSEP:

¹ In determining that the State has satisfied the requirements of the Special Conditions, the Office of Special Education Programs (OSEP) is relying, in part, on the State's assurance in its e-mail message of June 14, 2004, that it is not possible to report, by district, on the performance of students with disabilities, because doing so would result in the disclosure of performance results identifiable to individual children. Specifically, the June 14, 2004 e-mail message from Joanne C. Holmes stated that, "There are 529 students statewide who submitted alternate assessment portfolios. The "n" size in our districts, including Portland and Bangor, the two metropolitan areas, is 5 or less which would make the students personally identifiable [under 34 CFR §300.139(a)(2)]. Therefore we have only posted the state report."

1. The Part B Eligibility Documents for FFY 2004 including the Eligibility Documents submitted April 14, 2000, and subsequent revisions to those Eligibility Documents, and the Submission Statement submitted March 22, 2004; and
2. The May 26, 2004 letter from MDOE to OSEP, in which MDOE assures that it will take steps necessary to complete revisions to its eligibility document to conform it to the requirements of Part B, specifically to:
 - a. No later than May 31, 2005, submit documentation to OSEP that it has amended Maine's Statute MRSA 20-A, Part 4, chapter 303, Subchapter 1, §7206 to ensure that §7206(4) is not used to deny or otherwise limit a party's right to initiate a hearing under 34 CFR §300.507(a)(1) because the party raised the same issue in a State complaint or declined to appeal within a particular time period the State's decision on the complaint;
 - b. Ensure compliance in the interim (throughout the FFY 2004 year) with the Part B regulations, including 34 CFR §300.507(a)(1); and
 - c. Provide OSEP with a copy of a memorandum notifying all public agencies of changes that impact their provision of special education and related services required by OSEP as a result of its review of the State's Eligibility Documents.

OSEP remains concerned about the status of Maine's correction of the Part B noncompliance issues most recently identified in OSEP's December 30, 2003 response to the State's June 26, 2003 Improvement Plan submission and February 19, 2004 letter regarding the October 2003 verification visit (and originally identified in OSEP's 1997 Maine Monitoring Report). OSEP will issue shortly a separate letter responding to the State's FFY 2002 Part B APR (that the State submitted on April 15, 2004), which letter will require additional interim and final progress reports and strategies in order for the State to demonstrate the State has corrected the previously-identified longstanding noncompliance areas. Resolution of these issues should be viewed as a high priority by the State during the FFY 2004 grant year.

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

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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.

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: Mr. David Noble Stockford