



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

JUL - 8 2004

Honorable Patti Harrington
State Superintendent of Public Instruction
PO Box 144200
250 East 500 South
Salt Lake City, Utah 84114-4200

Dear Superintendent Harrington:

This is to inform you that we have received Utah's Eligibility Documents for Federal Fiscal Year (FFY) 2004 under Part B of the Individuals with Disabilities Education Act (IDEA), submitted by Utah to the Office of Special Education Programs (OSEP) on May 19, 2004. Based on these documents and Utah's Eligibility Documents approved by OSEP on July 1, 2001, your grant awards are enclosed.

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.

The Utah FFY 2004 IDEA Part B grant awards are being released subject to FFY 2004 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 Utah is not developing and administering alternate assessments (in science) and reporting publicly and to the Secretary on the participation and performance of children with disabilities in State and district-wide assessments, including alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a)(2).

Your State's failure to develop and administer alternate assessments (in science) and report publicly and to the Secretary on the participation and 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 Utah did not 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 (the State has informed the Department that it will provide documentation by the 2005-06 school year that it has reported publicly on the

participation and performance of children with disabilities in alternate assessments), 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 the enclosure. Utah 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 Utah of these grant awards constitutes an agreement by the State to comply with the Special Conditions.

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.

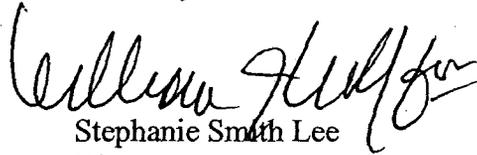
Enclosure B provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure B shows State-by-State funding levels for distribution of Section 619 funds.

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". The signature is written in a cursive style with a large initial 'S' and a long, sweeping underline.

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosures

cc: Karl Wilson