

Archived Information



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

JUL - 6 2004

Honorable David Stewart
Superintendent
West Virginia Department of Education
1900 Kanawha Blvd. E. Bldg. 6
Charleston, WV 25305-0330

Dear Superintendent Stewart:

This is to inform you that we have conditionally approved West Virginia'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 West Virginia Department of Education 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 June 14, 2000 and the Submission Statement submitted April 7, 2004; and
2. The June 24, 2004 letter from West Virginia to OSEP, in which West Virginia assures that as soon as possible, but no later than July 1, 2005, West Virginia will:

Make all of the changes to its statutes, regulations, policies and procedures, as specified in the memorandum dated June 23, 2004, that are necessary to make them consistent with the following requirement of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations in 34 CFR Part 300, and will provide the Secretary with a copy of the revised documents showing those changes: 34 CFR Section 300.123.

Throughout the period of the State's grant awards for fiscal year 2004 under Part B of the IDEA, the State will ensure that all public agencies in the State that provide special education and related services to children with disabilities will comply with all of the requirements of Parts A and B of IDEA and its implementing regulations; and

The State will 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.

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.

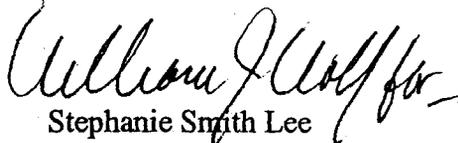
These awards are based on submission of a complete Eligibility Document, a signed assurance statement regarding resolution of issues identified in OSEP's review of the Eligibility Documents, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete Eligibility 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". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosures

cc: Dr. Dee Braley