



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

JUL - 1 2005

Mr. Jack O'Connell  
Superintendent of Public Instruction  
California Department of Education  
1430 N Street, Suite 5602  
Sacramento, CA 95814

Honorable Roderick Q. Hickman  
Agency Secretary  
California Youth and Adult Correctional Agency  
P.O. Box 13980  
Sacramento, CA 95853

Dear Superintendent O'Connell and Secretary Hickman:

This is to inform you that we have conditionally approved California's Eligibility Documents, including assurances and certifications, for Federal Fiscal Year (FFY) 2005 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for conditional approval is based on our receipt of the State's application submitted by California to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 9, 2005, and amended on June 28, 2005 (Assurances) and June 16, 2005 (Use of Funds) in which the California Department of Education (CDE) assures that it will:

1. Operate consistent with all requirements of PL 108-446 and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of Part B of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. Section II of the State's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend policies and procedures and the timelines by which the State will amend its policies and procedures in order to comply with Part B of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies and procedures that are not yet in compliance with the requirements of Part B of the IDEA, as amended.

Our determination that you are eligible for a conditional approval is also based on our receipt of the June 30, 2005 letter from CDE to OSEP (received by facsimile transmission on June 29, 2005), in which CDE assures that:

1. As soon as possible, but no later than June 30, 2006, California will make every reasonable effort to enact all of the changes to its statutes, regulations, policies and procedures that are necessary to make them consistent with the requirements of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations in 34 CFR Part 300, as set forth in the issues chart transmitted to CDE on June 28, 2005, and will provide the Secretary with a copy of the revised documents showing those changes;
2. All local educational agencies (LEAs) and agencies serving children and youth with disabilities in California who are utilizing Federal Part B dollars are following the federal

statutes and regulations consistent with IDEA 2004. To that end, all Special Education Local Plan Areas (SELPAs), as the fiscal units for flowing Federal Part B monies, will assure CDE that their constituent LEAs are operating within the legal parameters of the IDEA. Throughout the period of the State's grant awards for fiscal year 2005, under Part B of the IDEA, all public agencies in the State plan (CDE eligibility document) will comply with all of the requirements of Parts A and B of the IDEA and its implementing regulations; and

3. California will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact on public agencies' provision of special education and related services that OSEP requires as a result of its review of the State's eligibility documents.

Please note that as part of your Eligibility Documents for FFY 2005, 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 policies and procedures needed to comply with Part B of the IDEA, must meet the applicable public participation requirements, including those in 20 U.S.C. 1232d(b)(7).

Enclosed are grant awards for funds currently available under the Department of Education FFY 2005 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 2005-2006 and are available for obligation by States from July 1, 2005 through September 30, 2007.

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 2005. Of the \$10,589,745,824 appropriated for Section 611 in FFY 2005, \$5,176,745,824 is available for awards on July 1, 2005, and \$5,413,000,000 will be available on October 1, 2005.

Under the Section 611 formula, 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. Section 619 funds are allocated to States subject to certain maximum and minimum funding requirements, based on the amount that each State received from FFY 1997 funds, the general population of children age 3 to 5, and the number of children living in poverty in the age range 3 to 5.

Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations. Table II in Enclosure B shows your State-specific information for within-State distribution of 611 funds based on your State's application. If you disagree with the information in Enclosure B Table II, notify your State contact immediately.

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

As detailed in Enclosure D of this letter, the Department has determined that the State remains a high risk grantee in regard to the provision of special education and related services to eligible individuals with disabilities who are convicted as adults and incarcerated in adult prisons, and

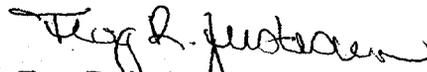
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Enclosure D sets forth a special condition relating to that issue. The Department's continuing imposition of a Special Condition relating to the provision of services in prisons is based upon the State's failure to fully address the California Department of Corrections' (CDC's) failure to ensure that a free appropriate public education (FAPE) is available to eligible inmates with disabilities in adult correctional facilities.<sup>1</sup>

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,



Troy R. Justesen  
Acting Director  
Office of Special Education Programs

Enclosures

cc: Dr. Alice D. Parker

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<sup>1</sup> On June 5, 1997, in his Executive Order W-155-97, former Governor Wilson transferred from CDE to CDC the responsibility for ensuring that the requirements of the IDEA are met with respect to eligible youth who are convicted as adults under State law and are incarcerated in adult prisons.