



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

JUL 31 2009

Honorable LaVerne Terry
Commissioner of Education
Virgin Islands Department of Education
1834 Kongens Gade
St. Thomas, U.S. Virgin Islands 00802-6746

Dear Dr. Terry:

We have determined that your State's application for Federal Fiscal Year (FFY) 2009 funds under Part B of the Individuals with Disabilities Education Act (IDEA or Part B) can be approved and are transmitting your regular IDEA Part B funds for FFY 2009. This letter also transmits the first fifty percent of your jurisdiction's IDEA Part B funds under the American Reinvestment and Recovery Act of 2009 (ARRA) (see Enclosure E -- April 1, 2009 Memo and Grant Terms and Conditions).

Our approval is based on review of the application submitted by the Virgin Islands Department of Education (VIDE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 24, 2009, May 14, 2009, and June 16, 2009, including assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A and on review of the Special Conditions reports and clarifications submitted February 2, 2009, May 15, 2009, June 15, 2009, June 19, 2009, June 29, 2009, July 2, 2009, and July 16, 2009.

As set forth in Enclosure C, on June 19, 2009, Department-wide Special Conditions were placed on all Department grants awarded to VIDE, including grants under the ARRA, in order to ensure that Virgin Islands is managing and administering Department funds in accordance with applicable Federal requirements. In addition to the Department-wide Special Conditions, the State's FFY 2009 IDEA Part B grant award is being released subject to FFY 2009 program-specific Special Conditions as set forth in Enclosure D. The program-specific Special Conditions are being imposed in order to allow VIDE to demonstrate compliance with the requirements related to: children with disabilities transitioning from Part C to Part B; reporting on the participation and performance of children with disabilities on Territory-wide and district-wide assessments with and without accommodations and on alternate assessments; and the use of appropriate guidelines in the administration of Territory-wide and district-wide assessments consistent with Part B requirements. Acceptance by your jurisdiction of the IDEA Part B grant award constitutes an agreement to comply with the conditions in Enclosures C and D.

Please note that as part of your application for FFY 2009, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2009 grant period. Any changes made by the State, after OSEP approval, to information that is a part of a State's application, must meet the public participation requirements in 34 CFR §300.165.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Enclosed are the State's regular grant awards for funds currently available under the Omnibus Appropriations Act, 2009 for the Part B Section 611 (Grants to States) program. These funds are for use primarily in school year 2009-2010 and are available for obligation by States from July 1, 2009 through September 30, 2011 in accordance with 34 CFR §76.709.

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 2009. Of the \$11,505,211,000 appropriated for Section 611 in FFY 2009, \$2,912,828,004 is available for awards on July 1, 2009, and \$8,592,382,996 will be available on October 1, 2009.

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.¹

In addition to these regular FFY 2009 Part B funds, the ARRA provided a one-time large increment in IDEA Part B funding. The ARRA IDEA Part B grant is a supplemental appropriation to the regular IDEA Part B appropriation. The first 50 percent of the ARRA IDEA Part B funds is being awarded to VIDE through this grant letter with its regular FFY 2009 IDEA Part B formula grant. The effective date of the ARRA IDEA Part B grant award is February 17, 2009. Acceptance by your jurisdiction of the ARRA IDEA Part B grant award constitutes an agreement to comply with the conditions in Enclosures C, D, and E and in Box 10 on the enclosed Grant Award Notification.

As specified in OSEP's June 12, 2009 e-mail to VIDE, VIDE is required to submit a plan that includes additional information to address how it will meet the accountability and reporting requirements in section 1512 of the ARRA before it will be considered eligible to receive the second 50 percent of its ARRA IDEA Part B funds. As detailed in Enclosure F, States and Territories are required to track and account for the ARRA IDEA Part B funds separately from the regular IDEA Part B grant awards funds.

Together, a State's regular FFY 2009 IDEA funds and a State's ARRA IDEA Part B funds constitute a State's total FFY 2009 Part B allocation. Given the increased IDEA Part B FFY 2009 allocation to each State, States may wish to review carefully the guidance on the ARRA IDEA Part B grant awards, available at <http://www.ed.gov/fund/data/award/idea/arra/index.html>.

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.

¹ The amount that a State's allocation may increase from one year to the next is capped at the amount the State received in the prior year multiplied by the sum of 1.5 percent and the percentage increase in the total amount appropriated for Part B of IDEA from the prior year. Additionally, the maximum amount that a State may receive in any fiscal year is calculated by multiplying the number of children with disabilities ages 3 through 21 served during the 2004-2005 academic year in that State by 40 percent of the annual per pupil expenditure (APPE), adjusted by the rate of annual change in the sum of 85 percent of the children aged 3 through 21 for whom that State ensures FAPE and 15 percent of the children living in poverty. Because there are multiple caps, in any year the "effective cap" on a State's allocation is the lowest cap for that State.

Section 611(e)(1)(C) of the IDEA provides that "[p]rior to expenditure of funds under this paragraph [section 611(e)(1) concerning funds for State administration], the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current." We read this provision to mean that if a State does not have interagency agreements or other arrangements in place to establish responsibility for the provision of services, the State may not expend funds available to the State under section 611(e)(1) [State administration funds] until the State has these agreements or arrangements in place.

Under section 608(a)(2) of the IDEA, each State that receives funds under Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations and policies that it was required to submit to the Department in Section IV of its Part B application for this purpose.

The enclosed grant awards for FFY 2009 are made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part B.

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

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C
- Enclosure D
- Enclosure E

cc: State Director of Special Education