



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

JUL - 1 2010

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

Dear Dr. Terry:

We have approved your State's application for Federal Fiscal Year (FFY) 2010 funds under Part B of the Individuals with Disabilities Education Act (IDEA or Part B). 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 May 10, May 26, and June 1, 2010, 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 submitted on February 1, 2010, April 7, 2010, May 14, 2010, and June 10, 2010.

As set forth in Enclosure C, the State's FFY 2010 IDEA Part B grant award is being released subject to FFY 2010 program-specific Special Conditions. In addition, as set forth in Enclosure D, Department-wide Special Conditions were placed on all Department grants awarded to VIDE in order to ensure that the Virgin Islands is managing and administering Department funds in accordance with applicable Federal requirements.

The IDEA program-specific Special Conditions are being imposed consistent with 34 CFR §80.12 and based on VIDE's failure to demonstrate compliance with the requirements of 20 U.S.C. §1412(a)(16) and 34 CFR §300.160 related to reporting on the participation of children with disabilities on Territory-wide assessments with and without accommodations and on alternate assessments; and the failure to ensure that the St. Thomas/St. John school district is administering 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 2010, 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 during the FFY 2010 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.

Enclosed is the State's grant award for funds currently available under the Consolidated Appropriations Act, 2010 - P.L. 111-117 for the Part B Section 611 (Grants to States) program. These funds are available for obligation by States from July 1, 2010 through September 30, 2012 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 2010. Of the \$11,505,211,000 appropriated for Section 611 in FFY 2010, \$2,912,828,000 is available for awards on July 1, 2010, and \$8,592,383,000 will be available for awards on October 1, 2010.

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.

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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.<sup>1</sup>

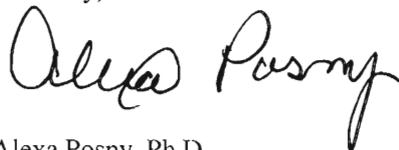
Section 611(e)(1)(C) of the IDEA provides that "[p]rior to expenditure of funds under this paragraph [section 611(e)(1) concerning funds for State administration], the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) 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 award of FFY 2010 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary 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,



Alexa Posny, Ph.D.  
Acting Director  
Office of Special Education Programs

Enclosures

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

cc: State Director of Special Education

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<sup>1</sup> Pursuant to language contained in the Department of Education Appropriations Act in 2010, the Part B funds awarded to States under the American Recovery and Reinvestment Act of 2009 for FFY 2009 were not considered for purposes of calculating State allocations under Section 611 for FFY 2010.