



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

JUL - 1 2012

Honorable Hosanna Mahaley
State Superintendent
District of Columbia
Office of the State Superintendent of Education
810 First Street, N.E., 9th Floor
Washington, D.C. 20002

Dear Superintendent Mahaley:

We have conditionally approved the District of Columbia's application for Federal Fiscal Year (FFY) 2012 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our conditional approval is based on our review of the application submitted by the District of Columbia, Office of the State Superintendent of Education (D.C. or D.C. OSSE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 10, 2012, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided specific assurances that it will:

1. Operate consistently with IDEA Part B 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 IDEA Part B as soon as possible, and not later than June 30, 2013. Within Section II of its application, the State has included, for each assurance it cannot meet at this time, the date by which it expects to complete necessary changes to any policies and procedures that are not yet in compliance with the requirements of IDEA Part B.

As set forth in Enclosure D, in April 2006, under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department designated the District of Columbia Public Schools (DCPS)¹ a "high-risk" grantee. Special Conditions were placed on all Department grants awarded to DCPS because of problems in DCPS' fiscal and program accountability, management systems, and related areas. The FFY 2006, FFY 2007, FFY 2008, FFY 2009, FFY 2010, and FFY 2011 IDEA Part B grant awards were released subject to the Department-wide Special Conditions. Because of the problems noted in the Department's correspondence, dated June 19, 2012, (Enclosure D), D.C. OSSE's status as a "high-risk" grantee under 34 CFR §80.12 continues, and therefore, Special Conditions are imposed on all FFY 2012 grants awarded to D.C. OSSE by the Department.

In addition to the Department-wide conditions, the State's FFY 2012 IDEA Part B grant awards are being released subject to FFY 2012 Special Conditions, as set forth in Enclosure E, that are being imposed pursuant to the Department's authority in IDEA section 616(g) and 34 CFR §80.12. Specifically, OSEP determined that D.C. has continued to demonstrate noncompliance related to: timely initial evaluations and reevaluations (IDEA sections 612(a)(7) and 614(a) through (c) and 34 CFR §§300.301(c)(1) and 300.303); timely implementation of hearing officer

¹ The District of Columbia Public Education Reform Act of 2007 signed into law by the Mayor on April 23, 2007, transferred authority to the Mayor's Office for the purpose of administering Federal grants, the functions of the State educational agency, the local educational agency, and the State agencies responsible for Adult Education and Literacy and the IDEA Part C early intervention program. The transfer to D.C. OSSE became effective October 1, 2007.

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determinations (IDEA section 615(f) and (i)); timely correction of noncompliance (IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, 20 U.S.C. 1232d(b)(3)(E), and OSEP Memorandum 09-02, dated October 17, 2008); secondary transition requirements (IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b)); and early childhood transition requirements (IDEA section 612(a) and 34 CFR §300.124(b)).

Your State's failure to ensure: (a) timely initial evaluations and reevaluations; (b) timely implementation of hearing officer determinations; (c) timely correction of noncompliance; (d) compliance with secondary transition requirements; and (e) compliance with early childhood transition requirements in IDEA Part B resulted in the Department imposing the FFY 2011 Special Conditions contained in Enclosure E of the July 1, 2011 grant award letter. Because D.C. did not meet those Special Conditions, the Department is, again, imposing Special Conditions on the State's FFY 2012 grants under IDEA Part B.

On June 28, 2012, D.C. was notified that under section 616(d), the Department determined that D.C. needs intervention in implementing the requirements of Part B of the IDEA for the sixth consecutive year. In accordance with IDEA section 616(e)(2)(B)(i) and 34 CFR §300.604(b)(2)(i), the Department required D.C. to submit a corrective action plan (CAP) by August 1, 2012 that is reasonably designed to address each of the areas in which the State needs intervention. In addition to submitting a CAP, pursuant to IDEA section 616(e)(1)(B) and (2)(A) and 34 CFR §300.604(a)(2) and (b)(1), the Department directed D.C. to use: (1) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to further reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to address noncompliance with secondary transition requirements.² The Department authorizes D.C. to use the otherwise directed funds for other purposes if the State elects to direct local educational agencies (LEAs) that demonstrated noncompliance with these requirements to use: (1) \$250,000 of their FFY 2012 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) \$250,000 of their FFY 2012 IDEA Part B funds to address noncompliance with secondary transition requirements. The reporting requirements related to the CAP and directed use of FFY 2012 IDEA Part B funds outlined in the Department's June 28, 2012 letter are incorporated in the Special Conditions and described in Enclosure E.

The reasons for the Special Conditions and the specific conditions are also detailed in Enclosure E. The State must administer these grant awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document.

² Under Section III of the FFY 2012 Part B application, D.C. was required to complete an Excel Interactive Spreadsheet that describes how it intends to use its FFY 2012 State-level funds reserved under IDEA section 611(e) for administration and other State-level activities. In completing the Spreadsheet, each State must indicate, for each of the activities listed in IDEA section 611(e)(1) and (2), dollar amounts, if any, of the State's total allocation under section 611(e) for FFY 2012 that will be used for that activity. D.C. must obtain the prior approval of OSEP if it changes the dollar amounts that will be used for one of the activities listed in the Spreadsheet and that change exceeds ten percent of the total amount of funds reserved under IDEA section 611(e) for State-level activities. See 34 CFR §80.30(c)(1).

Acceptance by the District of Columbia of these grant awards constitutes an agreement by the State to comply with the Special Conditions.

Please note that as part of your application for FFY 2012, your State has made an assurance, pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2012 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 are the State's grant awards for funds currently available under the Consolidated Appropriations Act, 2012 -- P.L. 112-74 for the IDEA Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are available for obligation by States from July 1, 2012 through September 30, 2014 in accordance with 34 CFR §76.709.

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 2012. Of the \$11,577,855,236 appropriated for Section 611 in FFY 2012, \$2,294,472,236 is available for awards on July 1, 2012, and \$9,283,383,000 will be available for awards on October 1, 2012. 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.³

In FFY 2012, the appropriation for the Preschool Grants program is \$372,645,369. Under the Section 619 formula, in a year in which the amount available for allocation to States decreases from the prior year, but is greater than the 1997 level, any amount available for allocation to States above the 1997 level is allocated based on the relative increases in funding that the States received between 1997 and the prior year.

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.

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

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

³ 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.

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 IDEA Part B is required to inform in writing LEAs 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 IDEA Part B application for this purpose.

The enclosed grant awards of FFY 2012 funds 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 may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part B.

As a reminder, no later than August 31, 2012, all prime recipients of IDEA (Part B or Part C) funds, must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State's Recovery Act Facilitator if you have further questions.

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

Sincerely,

Handwritten signature of Melody Musgrove in cursive script, with the initials "RM" written below the name.

Melody Musgrove, Ed.D.

Director

Office of Special Education Programs

Enclosures

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

cc: State Director of Special Education