



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

July 1, 2014

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

Dear Superintendent Aguirre:

We have conditionally approved the District of Columbia's application for Federal Fiscal Year (FFY) 2014 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 (D.C.), Office of the State Superintendent of Education (OSSE) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 12, 2014, 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, 2015. 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, on June 19, 2014, the Department notified D.C. officials of the Department's decision to remove the "high-risk grantee" designation that had been imposed on grants issued to D.C. OSSE under the authority in 34 CFR §80.12. As of the date of that letter, and subject to its terms, D.C. OSSE is no longer considered a "high-risk grantee." As explained in the June 19, 2014 letter, the decision to remove the Department-wide "high-risk grantee" designation is based on D.C. OSSE's demonstrated progress in making the improvements necessary to address longstanding financial and grants management issues that confronted D.C. OSSE in its administration of Federal education grants. Although D.C. OSSE's Department-wide "high-risk grantee" designation was removed, all FFY 2014 Department grant awards made to D.C. OSSE will still be subject to Special Conditions that, at a minimum, impose requirements on D.C. OSSE with respect to indirect costs, time and effort distribution, and subrecipient monitoring. In addition, the Department noted that due to continuing noncompliance with programmatic requirements under Part B of the IDEA, the Department will continue to designate D.C. OSSE as a "high-risk grantee" under Part B of the IDEA for FFY 2014.

Pursuant to IDEA section 616(g) of IDEA Part B and 34 CFR §80.12, OSEP designated D.C. as a “high risk” grantee under 34 CFR §80.12 and imposed Special Conditions on D.C. OSSE’s FFY 2013 grant award to ensure: (a) timely initial evaluations and reevaluations; (b) timely implementation of hearing officer determinations (HODs); (c) timely correction of noncompliance; (d) compliance with secondary transition requirements; and (e) compliance with early childhood transition requirements. On June 23, 2014, the Department notified D.C. OSSE that, based on the information that the State provided in its FFY 2013 Special Conditions progress reports, OSEP concluded that D.C. has satisfied the Special Conditions related to timely implementation of HODs and early childhood transition. We appreciate the steps the State has taken to correct noncompliance related to these two key IDEA requirements and expect that D.C. OSSE will continue to monitor these areas to ensure a high degree of compliance is sustained.

The Department’s June 23, 2014 letter further notes that, while D.C. has demonstrated progress, the State has not achieved compliance with the requirements 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 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); and secondary transition (IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b)). Thus, the Department is imposing Special Conditions on the State’s FFY 2014 grants under IDEA Part B.

On June 23, 2014, 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 eighth 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) that is reasonably designed to address the major areas of noncompliance which contributed to the State’s needs intervention determination. 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) \$125,000 of its FFY 2014 State-level funds under IDEA section 611(e) to further reduce the backlog of overdue reevaluations and increase progress toward ensuring timely reevaluations; and (2) \$250,000 of its FFY 2014 State-level funds under IDEA section 611(e) to address noncompliance with secondary transition requirements.¹ The Department authorizes D.C. to use the directed funds for other purposes if the State elects to direct local educational agencies that demonstrated noncompliance with these requirements to use: (1) \$125,000 of their FFY 2014 IDEA Part B funds to reduce the backlog of overdue reevaluations and increase progress toward ensuring timely reevaluations; and (2) \$250,000 of their FFY 2014 IDEA Part B funds to address noncompliance with secondary transition requirements. In addition, pursuant to IDEA section 616(e)(1)(A) and (2)(A), the Department advised D.C. of

¹ Under Section III of the FFY 2014 Part B application, D.C. was required to complete an Excel Interactive Spreadsheet that describes how it intends to use its FFY 2014 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 2014 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).

available sources of technical assistance and directed the State to access technical assistance related to those results elements for which the State received a score of zero on the 2014 Part B Results Driven Accountability Matrix. The reporting requirements related to the CAP, directed use of FFY 2014 IDEA Part B funds, and required technical assistance outlined in the Department's June 23, 2014 letter are incorporated in the Special Conditions and described in Enclosure E.

Please note that as part of your application for FFY 2014, 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 2014 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, 2014 -- P.L. 113-76 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, 2014 through September 30, 2016, 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 2014. Of the \$ 11,472,848,000 appropriated for Section 611 in FFY 2014, \$ 2,189,465,000 is available for awards on July 1, 2014, and \$9,283,383,000 will be available for awards on October 1, 2014. Under the Section 611 formula, in a year in which the amount available for allocations to States increases from the prior year, 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.²

In FFY 2014, the appropriation for the Preschool Grants program is \$353,238,000. Under the Section 619 formula, in a year in which the amount available for allocation to States increases from the prior year and is less than the amount allocated to the States for FFY 1997, State allocations are based on the amount that each State received under section 619 for FFY 1997, ratably reduced, subject to the requirement that no State's allocation shall be less than its section 619 allocation for the preceding fiscal 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.

² 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.

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 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 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 IDEA Part B application for this purpose.

The enclosed grant awards of FFY 2014 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.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA section 618(a)(3), the State was required to submit data on the total amount of State financial support made available for special education and related services for children with disabilities in State fiscal year (SFY) 2012 and SFY 2013. If OSEP receives information through audits, fiscal monitoring or other means that raises questions about the data your State has provided in Section V, OSEP will follow-up with your State.

As a reminder, 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. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State’s Fiscal Accountability Facilitator if you have further questions.

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 "Melody Musgrove". The signature is fluid and cursive, with the first name "Melody" and last name "Musgrove" clearly distinguishable.

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