



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

Ms. Virginia C Beridon
State Director of Special Education
Department of Education
Post Office Box 94064
Baton Rouge, Louisiana 70804-9064

SEP 21 2000

Dear Ms. Beridon:

This is in response to your letter of September 11, 2000, in which you request that the date on your Federal Fiscal Year (FFY) 2000 grant awards under Part B of the Individuals with Disabilities Education Act be revised to be effective July 1, 2000 instead of the current effective date of July 6, 2000. The Office of Special Education Programs (OSEP) established the effective date for Louisiana's Part B grant awards as July 6, 2000 because that was the date on which the Louisiana Department of Education (LDE) submitted the required assurance to demonstrate eligibility for its Part B grants.

Under the Cash Management Improvement Act of 1990, which provides for timely transfer of funds between Federal agencies and States, the Federal government is liable for interest payments to a State that disburses its own funds for Federal program purposes before the date that Federal funds are deposited to the States' bank account for those obligations. OSEP Memo 99-13 (Procedures for States to Follow in order to receive a Grant Award under Part B of the IDEA, for Federal Fiscal Year 2000), describes the Education Department General Administrative Regulations (EDGAR) at §§76.703-76.704 which establish procedures for the Department and States regarding the obligation of funds (copy available upon request).

As explained in OSEP Memo 00-16, OSEP made grant awards under Part B for FFY 2000 to States that had submitted complete eligibility document packages and had provided an assurance that as soon as possible within the grant year, the State would make all needed changes that OSEP identifies in its review of the State's eligibility documentation. Our records reflect that on June 21, 2000 LDE received a memo from Ruth Ryder, Director of the Monitoring and State Improvement Planning Division informing LDE of the appropriate language for its assurance (see attachment A, letter and fax confirmation). (On the same day, LDE also received a letter describing possible problems with its public participation process (see attachment B, letter and fax confirmation).) In addition, on June 23, 2000, Ms. Ryder and members of her staff conducted three conference calls that included representatives from the majority of the

States, including a representative from LDE. During this call, the need for an assurance prior to July 1, 2000 and the impact on the effective date of the grant award was clarified.

As of July 5, 2000, no assurance had been received from LDE. Linda Whitsett, the OSEP State contact for Louisiana, contacted you and you requested that another copy of the assurance letter of June 21, 2000 be faxed. That letter was faxed to you on July 6, 2000. LDE submitted the required assurance, dated July 7, 2000, but received in OSEP by fax on July 6, 2000. Therefore, at that point, LDE had submitted the required documentation to demonstrate eligibility, as of July 6, 2000 and the effective date of its Part B grant awards was July 6, 2000.

Subsequently, we received a call indicating that the July 6, 2000 effective date created problems with your fiscal or accounting system. You verbally requested pre-award costs for the period between July 1, 2000 and July 6, 2000. You were asked to submit your request in writing which you did on September 11, 2000.

We have determined that it is acceptable to grant your request for pre-award costs because it appears that it will have very limited potential harm to the Federal interest. We are requiring that before spending State funds for any costs incurred between July 1 and July 6, 2000, LDE will: 1) Exhaust any unspent Federal funds from prior years' grants under Part B that are available, consistent with Part B's funding scheme, to be spent on those costs; or 2) Provide documentation that its procedures do not permit it to use Federal funds from prior years' grants in this manner or that the use of such funds would impose substantial administrative costs on the State.

Please be advised, however, that our decision here is based on this particular situation and the limited potential harm to the Federal interest. In the future we may not be able to accommodate such requests. This letter will serve as notice of modification to the grant award period and should be attached to the grant award document.

If you have questions about this letter or the provisions of the Cash Management Improvement Act, please feel free to contact me or Ruth Ryder of my staff, at (202) 205-5547.

Sincerely,



Kenneth R. Warlick
Director
Office of Special Education Programs



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

A

MEMORANDUM

TO : Virginia Beridon
Assistant Superintendent
Louisiana Department of Education

FROM : Ruth Ryder *WR*
Director, Monitoring and State Improvement
Planning Division, OSEP

DATE : June 21, 2000

SUBJECT: Assurance Regarding Eligibility Document

As explained in OSEP Memorandum 00-16, the Office of Special Education Programs (OSEP) will make grant awards, under Part B of the Individuals with Disabilities Education Act (Part B) for Federal Fiscal Year (FFY) 2000, to States that have submitted complete eligibility document packages and have provided an assurance that, as soon as possible within the grant year, but no later than March 2, 2001, the State will make all needed changes that OSEP identifies in its review of the eligibility documentation. In addition, the State must ensure that all public agencies in the State that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B, during such time as the required revisions are being completed.

OSEP has identified your State as having submitted a complete eligibility document package and will make your FFY 2000 grant award based on an assurance from your State. The following represents an assurance that OSEP will accept:

[State] ensures that as soon as possible, but no later than March 2, 2001, it will resolve all of the issues identified in OSEP's review of the [State's] eligibility documentation.

[State] also assures that it will take steps to ensure that, throughout the period of this grant award, all public agencies in the State, that provide special education and related services to children with disabilities, will operate their programs in a manner fully consistent with Part B. [State] further assures that it 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 the State's eligibility documents.

Page 2 - Virginia Beridon

Your State should carefully consider who has authority to provide this assurance in light of changes to Part B and your own State's law. As in the past, the State education agency will continue to have primary authority and responsibility for ensuring that educational programs for children with disabilities meet the educational standards of the State, including the requirements of Part B.

In order to ensure a timely release of your FFY 2000 Part B grant award, please submit the assurance to Larry Wexler or me, as soon as possible. You may fax your assurance to (202) 205-9179.



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

B

Ms. Virginia Beridon
Assistant Superintendent
Office of Special Education Services
Louisiana Department of Education
P.O. Box 94064, 9th Floor
Baton Rouge, Louisiana 70804-9064

June 21 2000

Dear Ms. Beridon:

The Office of Special Education Programs (OSEP) issued OSEP Memorandum 99-13 (June 19, 1999) and OSEP Memorandum 00-4 (November 3, 1999) to inform States of the procedures they were to follow in order to receive a grant for Federal Fiscal Year (FFY) 2000. OSEP Memorandum 00-4 described the public participation requirements under the General Education Provisions Act (GEPA) and the Individuals with Disabilities Education Act (IDEA) regulations. The memorandum clarified that GEPA and the IDEA regulations require that States: (1) circulate their eligibility documents throughout the State for at least sixty days before they are submitted, with an opportunity for public comment to be accepted for at least thirty days; (2) hold public hearings on the proposed eligibility documents; and (3) review and consider the public comment before submitting those documents to the Department.

On April 14, 2000, OSEP received Louisiana's documents that were submitted in order to establish eligibility for participation in the IDEA Part B Grants to States program. Based on our review of Louisiana's April 14, 2000 submission, it appears that Louisiana only put its documents out for a 45-day comment period during which they accepted written comment from the public. This is inconsistent with the GEPA requirement that States must publish their eligibility documents in a manner that ensures circulation throughout the State for at least 60 days before they are submitted with at least 30 days for public comment. Rather than requiring you to repeat the entire 60-day process, we are requiring Louisiana to extend its comment period for an additional 15 days and accept and consider any comment received.

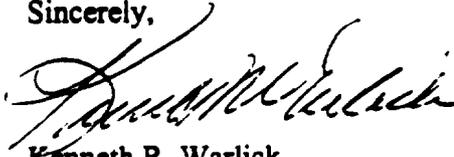
As explained in OSEP Memorandum 00-16, States with public participation problems must complete the required public participation activities as quickly as possible. However, awards of FFY 2000 funds to a State will not be delayed while these additional public participation activities are completed, as long as the rest of the State's submission is complete and the State provides the assurance described in OSEP Memorandum 00-16. Further information about the assurance will be issued shortly.

OSEP will not be able to determine whether your State's eligibility document submission is substantially approvable until we have been notified that all remaining public participation requirements have been met. If additional changes are made in your State's eligibility document submission, as a result of the additional public participation process, you must also resubmit the changed documents for approval.

Page 2 - Ms. Virginia Beridon

If OSEP's understanding of Louisiana's public participation process is incorrect, please provide documentation to clarify how Louisiana met the 60-day public participation period requirements. Should you have any questions, please feel free to contact Ruth Ryder at (202) 205-5547 or Larry Wexler at (202) 205-5390.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth R. Warlick".

Kenneth R. Warlick
Director
Office of Special Education
Programs