



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

SEP 25, 2002

Dr. Thomas P. DiPaolo
Director
Office of Special Needs
Rhode Island Department of Education
Shepard Building
255 Westminister Street, Room 400
Providence, Rhode Island 02903-3400

Dear Dr. DiPaolo:

We have received your August 20, 2002 letter in which you request that the effective date of Rhode Island's Individuals with Disabilities Education Act (IDEA), Part B, Grant be changed to July 1, 2002. The grant was awarded on July 18, 2002, the date that the Office of Special Education Programs (OSEP) received the Rhode Island Department of Education's (RIDE) assurance that it would take action necessary to ensure that the requirements of 34 CFR §300.523 are met. You have indicated to us that the delayed effective date would have significant negative financial impact on programs funded with Part B monies, as those programs have little if any funding remaining from the FY 00 and 01 grants and had ongoing activities in July.

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 02-04 (Procedures for States to Follow in Order to Receive a Grant Award under Part B of the Individuals with Disabilities Education Act (IDEA) for Federal Fiscal Year 2002), describes the Education Department General Administrative Regulations (EDGAR) at §§76.703-76.704 that establish procedures for the Department and States regarding the obligation of funds (copy available upon request).

As explained in OSEP Memo 02-04, OSEP makes grant awards under Part B for FFY 2002 to States that submit complete eligibility document packages and provide 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 27, 2002 RIDE received a memo from OSEP informing RIDE of the appropriate language for its assurance. RIDE and OSEP staff participated in a conference call on May 12, 2002, during which time it was agreed that it would not be necessary for RIDE to amend its regulation, but that instead it would send out to local education agencies a clarifying memo and provide training. OSEP received RIDE's assurance language on July 18, 2002 and issued RIDE's Part B grant award on that same date.

The Department is unable to change the effective date of the grant. However, in order to mitigate any negative financial impact on programs funded with Part B funds, OSEP will grant Rhode Island pre-award costs. We have determined that it is acceptable to grant pre-award costs because it appears that it will have very limited potential harm to the Federal interest and not covering costs incurred between July 1 and July 18, 2002 would create a significant hardship on State and local special education activities. We are requiring that before spending State funds for any costs incurred between July 1 and July 18, 2002, RIDE 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 any questions about the Department's decision to grant pre-award costs, please contact Dr. Gregg Corr, Associate Division Director, Monitoring and State Improvement Planning, at 202-205-9027.

Sincerely,

A handwritten signature in black ink that reads "Stephanie S. Lee". The signature is written in a cursive style with a large, prominent "S" at the beginning.

Stephanie S. Lee
Director
Office of Special
Education Programs