



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

THE ASSISTANT SECRETARY

AUG - 9 2011

Honorable Mitchell M. Zais
Superintendent of Education
South Carolina State Department of Education
1429 Senate St., Room 1006
Columbia, South Carolina 29201-3799

Dear Superintendent Zais:

The purpose of this letter is to inform you that the U.S. Department of Education (Department) will reduce your State's Part B Section 611 (Grants to States) award under the Individuals with Disabilities Education Act (IDEA) in Federal Fiscal Year (FFY) 2012 due to your State's failure to maintain State financial support for special education and related services in State Fiscal Year (SFY) 2010.

This letter follows up on the Department's June 17, 2011, and July 5, 2011, letters related to the maintenance of State financial support for special education and related services for the IDEA under 20 U.S.C. §1412(a)(18) and 34 CFR §300.163. As indicated in those letters, the IDEA provides in 20 U.S.C. §1412(a)(18)(B) that, when a State fails to maintain State financial support at the level required by law, the Department "shall reduce the allocation of funds under Section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement" to maintain effort "by the same amount by which the State fails to meet the requirement." Accordingly, the Department must reduce your State's Section 611 grant in the amount of \$36,202,909 because of the State's failure to maintain fiscal effort in SFY 2010 by that same amount.

As you know, the State is required to make available a free appropriate public education (FAPE) to all children with disabilities residing in the State regardless of the amount of the State's Section 611 allocation. 20 U.S.C. §1412(a)(1). Accordingly, in order to provide the State, and its local educational agencies (LEAs), additional time to take whatever steps are necessary to plan for the reduction and to ensure that a FAPE is available to all children with disabilities residing in the State, the reduction in South Carolina's IDEA Part B Section 611 (Grants to States) award will occur in FFY 2012.¹ Specifically, the Department will reduce the Section 611 funds distributed to the State on October 1, 2012, by \$36,202,909.

¹ Although the Department is exercising its discretion under the Act to delay the imposition of the reduction in South Carolina's Section 611 award, States should not rely on similar delays in future years, as these decisions are made on a case-by-case basis. If a State has not maintained effort, the State should anticipate a reduction in its Section 611 allocation by that amount in the year immediately following the failure to maintain effort, and must take action to ensure that FAPE will be made available to all eligible children with disabilities.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

In addition, under 20 U.S.C. §1411(d)(3)(B)(i), (ii), and (iii) (if there is an increase in the amount of Section 611 funds) or 20 U.S.C. §1411(d)(4) (if there is a decrease in the amount of Section 611 funds), the State's allocation for a fiscal year is based in part on the amount the State received for the preceding fiscal year. The reduced allocation that South Carolina will receive in FFY 2012 will stand as the amount the State received for the preceding fiscal year when the Department calculates the State's FFY 2013 grant.

In light of the South Carolina Advisory Council on the Education of Students with Disabilities' duties under 20 U.S.C. §1412(a)(21)(D), particularly its duty under 20 U.S.C. §1412(a)(21)(D)(i) to "advise the State educational agency of unmet needs within the State in the education of children with disabilities," we are providing it with a copy of this letter. In addition, the State must post this letter on the State educational agency's Web site and distribute a copy of this letter to each LEA no later than October 1, 2011, so that LEAs have notice of the Department's action.

We look forward to our continued collaboration to ensure that children with disabilities receive the special education and related services they need to reach their full potential.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" written in a larger, more prominent script than the last name "Posny".

Alexa Posny, Ph.D.

cc: South Carolina Advisory Council on the
Education of Students with Disabilities