



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

October 1, 2021

Honorable Mike Morath
Commissioner
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas 78701
commissioner@tea.state.tx.us

Dear Commissioner Morath:

In a letter dated January 17, 2017 (enclosed), the U.S. Department of Education (Department) issued a proposed determination that Texas is not eligible for a portion of a future section 611 grant under the Individuals with Disabilities Education Act (IDEA), in the amount of \$33,302,428, because it did not meet its obligation to maintain State financial support for special education and related services in State fiscal year (SFY) 2012. 20 U.S.C. §1412(a)(18)(A)–(B) and (d)(2). The purpose of this current letter is to inform you that the determination is now final, and the Department will reduce Texas’s IDEA section 611 award in a future Federal fiscal year due to the State’s failure to maintain State financial support for special education and related services in SFY 2012. The issuance of this final determination was delayed because of discussions between the Department and the Texas Education Agency (TEA) regarding TEA’s settlement proposal, which had initially included the SFY 2012 shortfall. Those discussions, which ended recently, did not conclude in a settlement.

Here is an overview of the actions on this matter. On February 14, 2017, Texas requested a hearing on the Department’s proposed determination. On May 23, 2018, the Hearing Official, Administrative Law Judge Robert G. Layton, issued an initial decision affirming the Department’s proposed determination. Consistent with the hearing procedures in 20 U.S.C. §1412(d)(2) and 34 CFR §300.182, each party had an opportunity to file comments and recommendations on the initial decision and to respond to the other party’s comments and recommendations. The Hearing Official then forwarded the initial decision and the parties’ comments to the Secretary for review. The Secretary did not review the Hearing Official’s initial decision, which therefore became the final decision of the Secretary on July 9, 2018. 20 U.S.C. §1412(d)(2) and 34 CFR §300.182(g).

On July 13, 2018, Texas filed a petition for review of the final decision with the U.S. Court of Appeals for the Fifth Circuit. On November 7, 2018, the Fifth Circuit issued a decision denying Texas’s petition for review and upholding the Secretary’s final decision (which had affirmed the Department’s proposed determination). That decision is now final and binding.

As indicated in the January 17, 2017 letter, the IDEA provides that, when a State fails to maintain State financial support for special education and related services at the level required by law, the Department “shall” reduce the allocation of funds to the State under section 611 “for any fiscal year following the fiscal year in which the State fails to comply with the requirement” to maintain State financial support “by the same amount by which the State fails to meet the

requirement.” 20 U.S.C. §1412(a)(18)(B). In that letter, we notified you that the Department made a proposed determination that Texas was not eligible for a portion of its section 611 grant under the IDEA, in the amount of \$33,302,428, because of its failure to maintain State financial support for special education and related services by that amount in SFY 2012. 20 U.S.C. §1412(d)(2). Because our proposed determination is now final, we will reduce Texas’s IDEA section 611 grant by \$33,302,428 in a future Federal fiscal year. In addition, in light of the Texas IDEA State Advisory Panel’s duties in 20 U.S.C. §1412(a)(21)(D), particularly its duty in 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.

Under the provisions included in the Department’s annual appropriations since 2015, the Secretary may apply the reduction specified in 20 U.S.C. §1412(a)(18)(B) over a period of up to five consecutive fiscal years, until the entire reduction is applied. Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2499 (Dec. 16, 2014). The Department is available to discuss with you any circumstances we should consider in determining how to apply the reduction. Please contact Jennifer Finch at Jennifer.Finch@ed.gov with any questions.

Sincerely,

/s/

Katherine Neas
Acting Assistant Secretary

Enclosure

cc: Texas IDEA State Advisory Panel