



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

**DATE**

**SENT VIA EMAIL - CONFIRMATION OF RECEIPT REQUESTED**

The Honorable W. Clayton Burch  
State Superintendent of Schools  
West Virginia Department of Education  
1900 Kanawha Boulevard East  
Building 6, RM 358  
Charleston, West Virginia 25305-0330  
[wburch@k12.wv.us](mailto:wburch@k12.wv.us)

Dear Superintendent Burch:

In my letter dated February 6, 2020, the U.S. Department of Education (Department) issued a proposed determination that West Virginia is not eligible for a portion of its grant under section 611 of Part B of the Individuals with Disabilities Education Act (IDEA) because West Virginia failed to meet the IDEA's maintenance of State financial support (MFS) requirement in State fiscal year (SFY) 2018. The purpose of this letter is to inform you that the determination is now final and that the Department will reduce West Virginia's IDEA Section 611 award in Federal fiscal year (FFY) 2021 due to West Virginia's failure to maintain State financial support for special education and related services in SFY 2018.

As indicated in the February 6, 2020 letter, the IDEA provides that, when a State fails to maintain State financial support 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 we made a proposed determination that West Virginia is not eligible for a portion of its Section 611 grant under the IDEA in the amount of \$10,110 because of its failure to maintain State financial support for special education and related services by that amount in SFY 2018. 20 U.S.C. § 1412(d)(2). As discussed in our previous letter, West Virginia had 30 days from the date of the receipt of the letter to request a hearing pursuant to the procedures in 34 C.F.R. §§ 300.179 through 300.183 regarding the Department's proposed determination.

In an e-mail dated February 7, 2020, Susan Beck, Executive Director for the West Virginia Office of Special Education, wrote: "Thank you for the call today. As discussed, [West Virginia] will not appeal this proposed determination. Please let us know if you need anything else." As a result, the Department now considers the proposed determination final, and will reduce West Virginia's FFY 2021 IDEA Part B Section 611 grant award (specifically, the Section 611 funds distributed to West Virginia on October 1, 2021) by a total of \$10,110. We will contact you under separate cover with more details regarding the reduction in the IDEA Section 611 grant award.

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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.*

Under 20 U.S.C. § 1416(e)(8) and 34 C.F.R. § 300.184, if a State is dissatisfied with the Secretary's final decision with respect to the eligibility of the State under Section 1412 of the IDEA, the State may, not later than 60 days after notice of that decision, file with the United States Court of Appeals for the circuit in which that State is located a petition for review of that decision.

The Department may undertake additional monitoring of West Virginia's implementation of Part B of the IDEA should the Department determine that to be necessary to assess whether a free appropriate public education is still being made available to all eligible children with disabilities in West Virginia. In addition, in light of the West Virginia 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.

West Virginia must post this letter on the State educational agency's Web site no later than 30 days from the date of this letter. 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. If you have questions about this action, please contact Matthew Schneer at 202-245-6755, or [matthew.schneer@ed.gov](mailto:matthew.schneer@ed.gov).

Sincerely,

Mark Schultz  
Commissioner,  
Rehabilitation Services Administration.  
Delegated the authority to perform  
the functions and duties of the Assistant Secretary  
for the Office of Special Education and  
Rehabilitative Services.

cc: West Virginia IDEA State Advisory Panel