



**THE SECRETARY OF EDUCATION**  
WASGHINTON, DC 20202

March 5, 2007

Honorable Rick Perry  
Governor of Texas  
Post Office Box 12428  
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of January 10, 2007, regarding allocations to Texas under Part C of the Individuals with Disabilities Education Act (IDEA), Grants for Infants and Toddlers with Disabilities and Families program, and under the Vocational Rehabilitation State Grants program pursuant to the Rehabilitation Act of 1973, as amended (Rehabilitation Act). In your letter, you asked if Texas could receive upward adjustments to its allocations under these programs because Texas State and local agencies and providers are serving increased numbers of individuals and families displaced by Hurricane Katrina.

I understand and empathize with the challenge that a sudden increase in population can present. Texas has done an admirable job in assisting these individuals and families. Although we do not have statutory authority to make adjustments based on population changes in the initial allocations under the formulas used under the two programs you cite, it may be possible to make additional funds available to Texas through the reallocation process under the Vocational Rehabilitation program during the fourth quarter of Federal Fiscal Year (FFY) 2007, if funds become available.

The allocations to each State under Part C of the IDEA are made based on the ratio of the number of infants and toddlers in that State to the number of infants and toddlers in all States. Under IDEA section 643(c)(1), and 34 C.F.R. § 303.200(b)(2), the term "infants and toddlers" means children from birth through age two in the general population, based on the "most recent satisfactory data as determined by the Secretary." State population adjustments that have not been incorporated into the census data would not constitute "satisfactory data." In accordance with our consistent interpretation and practice, for Part C grants for FFY 2006, we used July 1, 2004, census data released on March 10, 2005, by the Census Bureau of the U.S. Department of Commerce. Once the Department issues its Part C grants, the Department is not authorized to reallocate Part C funds based on changes in census data. However, we anticipate receiving updated census data prior to making final allocations for Part C grants for FFY 2007 that can begin on July 1, 2007.

Regarding the Vocational Rehabilitation (VR) State Grants program, the Department does not have authority to adjust the population data used in the allocation formula

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contained in Section 8(b) of the Rehabilitation Act, which requires that the Department use population data published by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated. Thus, we cannot make adjustments to the allocations for this program at this time. However, Texas may request additional funds for the VR program through the reallocation process pursuant to section 110(b)(2) of the Rehabilitation Act, if funds become available. Under that provision, the Department can make additional funds available to States, based on determinations that one or more States may not use all of the funds it received under the VR program. Each year, some additional funds are usually available under this reallocation process. In June, the Rehabilitation Services Administration will be sending State VR agencies a memorandum providing information on the reallocation schedule for FFY 2007, including the due date for requesting additional grant funds.

I hope this information is helpful. I greatly appreciate your commitment to meeting the needs of the many people who have relocated in Texas in the aftermath of Hurricane Katrina.

Sincerely,

Margaret Spellings