



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

JUL - 2 2007

Honorable C. Earl Hunter  
Commissioner  
Department of Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

Dear Commissioner Hunter:

This is to inform you that we have conditionally approved South Carolina's Application for Federal Fiscal Year (FFY) 2007 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the South Carolina Department of Health and Environmental Control (DHEC) to the U.S. Department of Education, Office of Special Education Programs (OSEP) on April 20, 2007 and revised on June 26, 2007, including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided the following specific assurances that it will:

1. Operate consistent with the Part C requirements in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2007 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the State's policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or June 30, 2008. Section II of the State's application identifies the IDEA statutory sections for which the State needs to amend any policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

South Carolina's FFY 2006 Part C grant was subject to a September 9, 2003 Compliance Agreement between DHEC and this Department under Part C, which Agreement ended on September 9, 2006. OSEP's February 2, 2007 letter confirmed that South Carolina had demonstrated correction of the following three areas of noncompliance addressed under the Agreement: (1) child find and timely comprehensive evaluation requirements in 34 CFR §§303.321(e)(2) and 303.322(e)(1); (2) requirements regarding identification and timely provision of early intervention services in 34 CFR §§303.340(c), 303.342(e), and 303.344; and (3) timely transition planning requirements in 34 CFR §§303.148(b)(1) and (b)(2)(i).

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OSEP's February 2, 2007 letter also required the State to submit, within 60 days, documentation that the State ensured that: (1) it is meeting the general supervision monitoring and correction requirements in 34 CFR §303.501(b); (2) transition steps and services are included in individualized family service plans as required by 34 CFR 303.148(b)(4) and 303.344(h); and (3) evaluations are comprehensive as required by 34 CFR §303.322(c)(3)(ii). The State provided updated data on March 30, 2007. In the table enclosed with OSEP's June 15, 2007 response to the State's FFY 2005 Annual Performance Report (APR), OSEP included its analysis of those data in its discussion of Indicators 7, 8A and 9. The State must provide the information required in those indicators in its FFY 2006 APR, due February 1, 2008.

Enclosed is the State's grant award for funds currently available under the Department of Education FFY 2007 Appropriations Act for the Part C program. These funds are available for obligation by States from July 1, 2007 through September 30, 2009.

The enclosed grant award for FFY 2007 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Please note that as part of your State's application for FFY 2007, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2007 grant period. Any changes made by the State to its FFY 2007 application or Part C policies or procedures that are application requirements, after issuance of this grant award, must meet the applicable public participation requirements under Part C of the IDEA in 34 CFR §§303.110 through 303.113 and if they are requirements under Section II.A must be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.

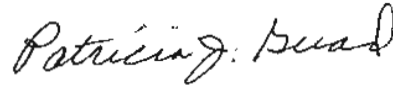
Section IV.B of the FFY 2007 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that your agency has a final restricted indirect cost rate of 4.8% that has been approved by your agency's cognizant Federal agency and is effective until June 30, 2007. Section IV.B of your State's Part C Application indicates that your agency will continue to apply the previously approved restricted indirect cost rate throughout the FFY 2007 grant year until a new restricted indirect cost rate is negotiated and approved by the State lead agency's cognizant Federal agency. A final restricted indirect cost rate may result in an adjustment of the final audited expenditures allowable to be charged to the Part C grant. The Department's issuance of this FFY 2007 grant award does not constitute approval of the provisional rate as the final rate for the lead agency for the FFY 2007 period. When a final restricted indirect cost rate is approved, the lead agency must submit to OSEP: (1) a copy of the "final" restricted indirect cost rate agreement; and (2) details of adjustments made to past GAPS draw downs in light of the "final" rate.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted

under the IDEA. Therefore, by accepting this grant a State is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures:

Enclosure A

cc: Part C Coordinator