



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

JUL 3 2006

Honorable John M. Selig  
Arkansas Department of Health  
and Human Services  
700 Main Street, P.O. Box 1437  
Little Rock, AR 72203-1437

Dear Director Selig:

This is to inform you that we have conditionally approved Arkansas' Application, including policies, procedures, methods, descriptions, and assurances, for Federal Fiscal Year (FFY) 2006 under Part C of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the Part C Application for FFY 2006, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted by the Arkansas Department of Health and Human Services to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 6, 2006, April 24, 2006, May 5, 2006, and May 25, 2006 in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its 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 2006 grant period; and
3. Make such changes to, and submit for OSEP's approval, existing 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, 2007. Section II of the State's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend policies, procedures, methods and descriptions and the timelines by which the State will amend any 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.

The conditional approval for the State's FFY 2006 Part C grant is also based on the assurance dated May 5, 2006 from the Arkansas Department of Human Services in which it assures that the State will take the following actions:

1. As soon as possible, but no later than June 30, 2007, the State will make all changes necessary to the State's application as specified in OSEP's June 29, 2005 Memorandum to the State, including (a) revise its June 18, 2004 Policy Directive to: (i) specify that parent consent is required under 34 CFR §303.402 and 34 CFR §300.571 prior to disclosing information to the referral source, and (ii) include the requirement in IDEA 20 U.S.C. 1437(a)(6)(B) regarding children under age of 3, not just at birth, who are identified as

- affected by illegal substance abuse; and (b) add to the State's procedural safeguards document the provisions of IDEA 20 U.S.C. 1415(e)(2)(F)(i) and (ii); and submit to OSEP the revised application, including its revised Policy Directive as specified above, and its revised assurance regarding the State's procedural safeguards;
2. Throughout the period of the State's grant award for fiscal year 2006 under Part C of IDEA, the State will ensure that all providers in the State will comply with all requirements of Parts A and C of IDEA, including 34 CFR §303.402 and 34 CFR §300.571, and as amended by Public Law 108-446, IDEA 20 U.S.C. §§1437(a)(6)(B) and 1439(a)(8) (which incorporates the amended provisions in section 1415(e)), (including sending a memorandum to all agencies and providers that are part of the State's Part C early intervention system to inform them of changes that impact the provision of early intervention services in the State with respect to the above-identified Part C requirements);
  3. By June 30, 2007, the State will provide OSEP with a copy of the memorandum notifying all agencies and providers that are part of the State's Part C early intervention system of any changes that impact the provision of services under Part C; and
  4. Ensure that the Statewide system of early intervention required by Part C of IDEA (as amended by Public Law 108-446) and its applicable regulations at 34 CFR Part 303 will be in effect throughout the FFY 2006 grant period.

Enclosed is the State's grant award for funds currently available under the Department of Education FFY 2006 Appropriations Act for the Part C program. These funds are for use primarily in fiscal year 2006-2007 and are available for obligation by States from July 1, 2006 through September 30, 2008.

The enclosed grant award for FFY 2006 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 2006, your State has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2006 grant period. Any changes made by the State to its FFY 2006 Application or its Part C policies, after OSEP's approval, must meet the applicable public participation requirements in Part C of the IDEA and may also need to be submitted to OSEP for approval prior to implementation.

Section IV.B of the FFY 2006 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that your agency is not charging indirect costs to the Part C program. By accepting Part C grant funds, your agency (as the lead agency designated under Part C) is agreeing not to charge indirect costs to Part C FFY 2006 grant funds.

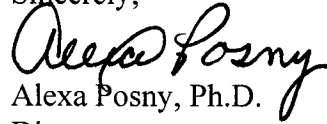
Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance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

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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.

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 black ink that reads "Alexa Posny". The signature is written in a cursive style with a large, looping initial "A".

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

Enclosure

Enclosure A

cc: Sharon Lee-Mitchel  
Part C Coordinator