



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

JUL - 3 2006

Honorable Chiyome L. Fukino, M.D.
Director of Health
Hawaii Department of Health
1250 Punchbowl Street, 3rd Floor
Honolulu, Hawaii 96813

Dear Director Fukino:

This is to inform you that we have conditionally approved Hawaii's 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 Hawaii Department of Health to the U.S. Department of Education, Office of Special Education Programs (OSEP), on March 21, and June 21, 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 Hawaii Part C FFY 2006 grant award is being released subject to special conditions, as set forth in Enclosure B, that are being imposed pursuant to the Department's authority in 34 CFR §80.12. OSEP imposed special conditions on Hawaii's FFY 2005 Part C grant due to Hawaii's noncompliance with the following four requirements: (1) Monitoring and correction under 34 CFR §303.501(b); (2) Timely comprehensive evaluations under 34 CFR §§303.321(e)(2) and 303.322; (3) Lack of content in the individualized family service plan (IFSP) regarding the child's present functioning levels under 34 CFR §303.344(a); and (4) Timely transition planning under 34 CFR §§303.148 and 303.344(h) including (a) Transition plans, (b) Notifying local educational

agencies (LEAs), and (c) Timely transition conferences. HDOH's June 7, 2006 final progress report under the FFY 2005 special conditions demonstrated that Hawaii has ensured that IFSPs contain the child's present level of developmental functioning as required by 34 CFR §303.344(a). However, Hawaii's June 7, 2006 report provided data indicating continued noncompliance with the other three areas.

Therefore, the Department is imposing Special Conditions on Hawaii's FFY 2006 grant award under Part C in Enclosure B, which is incorporated into the terms of this grant letter. These special conditions are imposed to ensure the timely comprehensive evaluation of, and timely transition planning for, infants and toddlers with disabilities and their families in Hawaii and to ensure that HDOH monitors and corrects in all agencies and programs that provide Part C services in Hawaii any State-identified noncompliance with Part C requirements. The reasons for imposing special conditions and their nature are detailed in the enclosure. Hawaii must administer these awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document. Hawaii's acceptance of its FFY 2006 Part C grant award constitutes an agreement to meet the programmatic Part C Special Conditions in Enclosure B, which require a progress report by February 1, 2007 and a final progress report by June 1, 2007.

Enclosed is Hawaii'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 the 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 Part C Application requested information about each State's indirect cost rate. The Hawaii Department of Health (HDOH) indicated that it 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 the Part C FFY 2006 Part C grant funds.

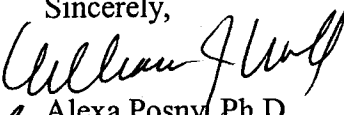
Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance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

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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,



for Alexa Posny Ph.D.
— Director

Office of Special Education Programs

Enclosures: Enclosure A
Enclosure B

cc: Sue Brown
Part C Coordinator