



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

JUL 3 2006

Honorable Rick Melmer
Secretary of Education
South Dakota Department of Education
700 Governors Drive
Pierre, South Dakota 57501-2291

Dear Secretary Melmer:

This is to inform you that we have conditionally approved South Dakota'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 South Dakota Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP), on March 29, 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 State's assurance dated March 15, 2006 that the State will:

1. Make all changes necessary to its definition of assistive technology device in its

- April 2005 interagency agreement and any Part C policies and procedures as specified in OSEP's June 2, 2005 Memorandum to the State to comply with IDEA Section 602(1)(B) and submit the revised application to OSEP not later than June 30, 2007;
2. Revise by June 30, 2007 its due process and mediation procedures to be consistent with Sections 632, 639(a)(8), and 615 of IDEA;
 3. Ensure compliance in the interim with the requirements of IDEA Section 601(1)(B), 632, 639(a)(8), and 615 of IDEA 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 the change that impacts on the provision of early intervention services in the State with respect to the above-identified Part C requirements; and
 4. Ensure that the statewide system of early intervention required by Part C of the IDEA and its implementing 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 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.

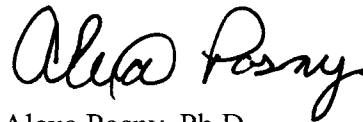
Please note that as part of your State's Application for FFY 2006, your State has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2006 grant period. Any changes made by the State to its FFY 2006 Application 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 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 Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities.

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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, flowing style.

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

Enclosures

Enclosure A

cc: Sherrie Fines

Part C Coordinator