



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

JUN 30 2008

Honorable John Auerbach
Commissioner
Massachusetts Department of Public Health
250 Washington Street
Boston, Massachusetts 02108-4619

Dear Commissioner Auerbach:

This is to inform you that we have conditionally approved Massachusetts' Application for Federal Fiscal Year (FFY) 2008 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Department of Public Health to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 6, 2008, 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 2008 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, 2009. 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.

The conditional approval for Massachusetts' FFY 2008 Part C grant is also based on the State's assurance dated June 18, 2008 from the Massachusetts Department of Public Health in which it specifically assured that the State shall:

1. Make all changes necessary to the State's Early Intervention Transition Policy (Section IX: Transition and Discharge) and complete all actions as specified in OSEP's June 16, 2008 memorandum to comply with the Part C requirements at 20 U.S.C 1437(a)(9), 34 CFR §303.148(b)(1), OSEP's 2004 Letter to Elder, and OSEP's 2003 Letter to Goodman, and

submit to OSEP the new and/or revised policy as soon as it is finalized but no later than June 30, 2009;

2. Ensure that, throughout the period that the State uses its Federal fiscal year 2008 grant funds under Part C of IDEA, all early intervention service programs and providers in the State will comply with all requirements of Part C of IDEA, including 20 U.S.C. 1437(a)(9), 34 CFR §303.148(b)(1), OSEP's 2004 Letter to Elder, and OSEP's 2003 Letter to Goodman;
3. Provide OSEP with a copy of the memorandum notifying all early intervention service programs and providers that are part of the State's Part C early intervention system of any changes that affect the provision of early intervention services under Part C, including 20 U.S.C. 1437(a)(9), 34 CFR §303.148(b)(1), OSEP's 2004 Letter to Elder, and OSEP's 2003 Letter to Goodman; and
4. Ensure that the statewide system of early intervention required by Part C of IDEA in 20 U.S.C. 1431-1444 and applicable regulations in 34 CFR Part 303 will be in effect throughout the FFY 2008 grant period.

OSEP also reviewed the revision in Massachusetts' eligibility definition under IDEA section 632, which the State submitted to OSEP on May 6, 2008 and intends to adopt only if determined needed by the lead agency. OSEP has determined that the revised eligibility definition is consistent with Part C requirements, and that the State has gone through the applicable public participation procedures required under 34 CFR §§303.110 - 303.113.

Enclosed is the State's grant award for funds currently available under the Department of Education Appropriations Act for FFY 2008 for the Part C program. These funds are available for obligation by States from July 1, 2008 through September 30, 2010.

The enclosed grant award for FFY 2008 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 2008, 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 2008 grant period. Any changes made by the State to its FFY 2008 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.

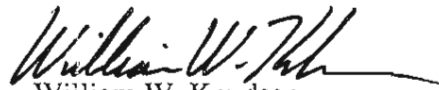
Section IV.B of the FFY 2008 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that your agency is not charging indirect costs to the Part C program. By accepting Part C grant funds, your agency (as the lead agency designated under Part C) is agreeing not to charge indirect costs to the Part C program for FFY 2008 Part C grant funds.

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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 black ink, appearing to read "William W. Knudsen", with a long horizontal flourish extending to the right.

William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

Enclosure A

cc: Part C Coordinator