

July 10, 2003

Honorable Susan Castillo  
Superintendent of Public Instruction  
Oregon Department of Education  
255 Capital Street, N.E.  
Salem, OR 97310-0203

Dear Superintendent Castillo:

We have determined that your State's application for Fiscal Year (FY) 2003, under Part C of the Individuals with Disabilities Education Act (Part C), can be conditionally approved. Therefore, I am enclosing your State's Part C grant award.

The conditional approval is based on our review and acceptance of the Oregon Department of Education Part C application for FY 2003, including:

1. those portions of the State's existing Part C application on file with the Secretary that remain in effect;
2. the assurance from Oregon Department of Education that the statewide system of early intervention services required by Part C and its implementing regulations is in effect; and
3. the July 3, 2003 letter from Oregon Department of Education to the Office of Special Education Programs, in which Oregon Department of Education assures that as soon as possible, but no later than June 30, 2004, the State will revise (and submit to OSEP the revised) State statute, regulations or rules, and policies and procedures (and any statutes and regulations) in the manner set forth in OSEP's July 1, 2003 memo to the State in order to be consistent with Part C of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations in 34 CFR Part 303 including 34 CFR §§303.148(a) and (b), 303.342(d)(1)(ii) and (d)(2), 303.343(a)(1)(vi), 303.343(b)(ii) and (iii), 303.344(a)(1) and (2), 303.344(c), 303.344(d)(1)(i), (ii) and (iii), and 303.344(e)(2), 303.344(f), 303.344(g)(1), (2) and (3), 303.344(h)(1) and (h)(2)(ii) and (iii), 303.403(c)(2)(ii), 303.404(b)(1) and (2), 303.406(d)(1)(i) and (ii) and 303.406(e)(4); and
4. ensure compliance in the interim with the requirements of Part C of the IDEA and its implementing regulations including those identified in the above paragraph.

This year, a number of states have either established systems of payments or are considering establishing or revising their systems of payments. Under 34 CFR §303.173(a), each State's Part C application must include the State's policies and procedures that identify: (1) how it will pay for early intervention services (under 34 CFR §303.520(a)); (2) any system of payments that the

State chooses to establish (under 34 CFR §303.521(a)); and (3) all funding sources (under 34 CFR §303.522). Although a State is not required under Part C to access public and private insurance available to a family, if a State requires parents under Part C to access their public and/or private insurance, the State must include this information in its Part C application as well as an assurance, under 34 CFR §303.520(b)(3)(ii), that the inability of a parent to pay will not result in the denial of any service under Part C.

States must ensure that all of the functions and early intervention services under 34 CFR §303.521(b) are carried out at public expense (i.e., no cost to the family). Additionally, under 34 CFR §303.521(c), States that provide children with disabilities under age 3 with a free appropriate public education (FAPE) under State law (i.e., birth-mandate States) must ensure that no fees are charged for the FAPE services provided to these children and their families. If a State has a system of payments under 34 CFR §303.521(a), any parent fees collected (for co-payments or other fees for services charged and received by the State's Part C program) are "program income" under 34 CFR §80.25. Program income is not included as part of total "State and local expenditures" for purposes of a State's meeting the non-supplanting requirements under Part C at 20 U.S.C. §1437(b)(5)(B) and 34 CFR §303.124.

The enclosed grant award for FY 2003 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application and appendices, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

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

Sincerely,

/s/ Patricia J. Guard for

Stephanie S. Lee  
Director  
Office of Special Education Programs

Enclosure

cc: Diana Allen  
Part C Coordinator