



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

JUL - 1 2005

Honorable Susan A. Gendron
Commissioner of Education
Maine Department of Education
23 State House Station
Augusta, ME 04333-0023

Dear Commissioner Gendron:

This is to inform you that we have conditionally approved Maine's Application, including policies, procedures, methods, descriptions, and assurances, for Federal Fiscal Year (FFY) 2005 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 2005, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted on May 2, 2005, and amended on June 13, 2005 by the Maine Department of Education (MDOE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its applicable regulations;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2005 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 July 1, 2006. 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 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 the State's FFY 2005 Part C grant is also based on the State's assurance dated June 22, 2005 that the State will:

1. No later than September 15, 2005, submit confirmation that Maine's amended statute at Maine's Statute MRSA 20-A, Part 4, chapter 303, Subchapter 1, §7206(4) is in effect (which has been revised to ensure that §7206(4) is not used to deny or otherwise limit a party's right to initiate a hearing under Part C under 34 CFR §§300.507(a)(1) and 303.420 because the party raised the same issue in a State complaint or declined to appeal within a particular time period the State's decision on the complaint);
2. Ensure compliance in the interim until September 15, 2005 with the Part C due process regulations applicable to Maine's due process hearings, including 34 CFR §300.507(a)(1), as incorporated by 34 CFR §303.420(a); and

3. Provide OSEP with a copy of a memorandum notifying all public agencies and hearing officers that §7206(4) cannot be the basis for a dismissal of a due process hearing and of changes that impact their provision of early intervention services required by OSEP as a result of its review of the State's Part C Application.

Please note that as part of your Application for FFY 2005, 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 2005 grant period. Any changes made by the State, after OSEP approval, to the State's Part C application (including policies and procedures) must meet the public participation requirements of IDEA, including those in 20 U.S.C. 1232d(b)(7).

The enclosed grant award for FFY 2005 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.

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." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

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

Sincerely,


Troy R. Justesen
Acting Director
Office of Special Education
Programs

Enclosure

cc: Laurie Bertulli, Part C Coordinator
David Noble Stockford, State Director
Joanne C. Holmes, Federal Liaison