



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

JUL - 2 2007

Honorable Vincent P. Meconi  
Secretary of Health and Social Services  
Delaware Department of Health and Social Services  
1901 N. DuPont Highway  
New Castle, DE 19720

Dear Secretary Meconi:

This is to inform you that we have conditionally approved Delaware's Application for Federal Fiscal Year (FFY) 2007 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Delaware Department of Health and Social Services (DHSS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on March 29, 2007, 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 2007 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, 2008. 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.

OSEP's July 3, 2006 FFY 2006 Part C grant award letter imposed Special Conditions to ensure compliance with Part C's timely transition conference requirement in IDEA section 637(a)(9) and 34 CFR §300.148(b)(2)(i). Delaware's June 27, 2007 final progress report provided data indicating improvement, but continuing noncompliance with Part C's timely transition conference requirement. Thus, Delaware's FFY 2007 IDEA Part C grant award is being released subject to Special Conditions, which are detailed in Enclosure B and incorporated into this grant letter. These Special Conditions are imposed to ensure that all infants and toddlers with IFSPs who are

potentially eligible for Part B receive timely transition conferences. Acceptance by Delaware of this grant award constitutes an agreement by the State to comply with the Special Conditions.

Enclosed is the State's grant award for funds currently available under the Department of Education FFY 2007 Appropriations Act for the Part C program. These funds are available for obligation by States from July 1, 2007 through September 30, 2009.

The enclosed grant award for FFY 2007 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 2007, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2007 grant period. Any changes made by the State to its FFY 2007 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 2007 application for Part C funds requested updated information about each State's restricted indirect cost rate. DHSS has a provisional restricted indirect cost rate of 5.59% that expires on June 30, 2008 and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the period: July 1, 2008 through June 30, 2009. In Section IV.B of the Application, the State lead agency indicated it will continue to bill the Part C FFY 2007 grant based on this provisional or previously approved restricted indirect cost rate until a final restricted indirect cost rate is approved for FFY 2007, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2007 grant funds. When a final restricted indirect cost rate is approved for FFY 2007, please forward to our Indirect Cost Unit: (1) a copy of the final rate agreement and (2) details of adjustments made to GAPS liquidations from the provisional or prior billing rate after approval of the final rate.

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.

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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 cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

cc: Part C Coordinator