



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

JUL - 2 2007

Honorable Mark D. Birdwhistell
Secretary
Cabinet for Health and Family Services
275 E. Main Street, 5WA
Frankfort, KY 40621

Dear Secretary Birdwhistell:

This is to inform you that we have conditionally approved Kentucky'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 Cabinet for Health and Family Services to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 19, 2007 and amended on June 26, 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.

The conditional approval for Kentucky's FFY 2007 Part C grant is also based on the State's assurance dated April 19, 2007 from the Kentucky Cabinet for Health and Family Services in which it specifically assured that the State shall:

- (1) Make all changes necessary to the State's policies, procedures, methods, descriptions and assurances as specified in the Office of Special Education Programs's (OSEP) June 20, 2005 Memorandum to revise or delete the provisions at 911 KAR 2:200 Section 5(6) to be consistent with Part C requirements at 20 U.S.C. 1432 (4)(B) and 34 CFR §303.520(b)(3)(ii), and submit the new and/or revised policies, procedures, methods,

descriptions, and assurances to OSEP by the established due date specified in Section II of the Part C application packet and in no case later than June 30, 2008;

- (2) Ensure throughout the period of the State's grant award for FFY 2007 under Part C of IDEA that all providers in the State will comply with all requirements of Parts A and C of IDEA, including 20 U.S.C. 1432(4)(B) and 34 CFR §303.520(b)(3)(ii) including, if necessary, sending a memorandum to all agencies and providers that are part of the State's Part C early intervention system to inform them of changes that impact on the provision of early intervention services in the State with respect to the above identified Part C requirements;
- (3) Provide OSEP with a copy of the memorandum notifying all agencies and providers that are part of the State's Part C early intervention system of any changes that impact the provision of services under Part C; and
- (4) Ensure that the statewide system of early intervention required by Part C of IDEA at 20 U.S.C. 1431-1444 and applicable regulations will be in effect throughout the FFY 2007 grant period.

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. 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 2007 Part C grant funds.

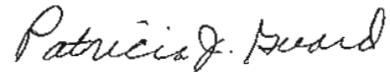
Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act." Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted

Page 3 -- Honorable Mark Birdwhistell

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,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

Enclosure A

cc: Part C Coordinator