



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

JUN 30 2008

Honorable Nicholas A. Toumpas
Commissioner of Health and Human Services
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301

Dear Commissioner Toumpas:

This is to inform you that we have conditionally approved New Hampshire's 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 New Hampshire Department of Health and Human Services to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 6, 2008 and amended on June 19, 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.

OSEP has reviewed the State's opt-out policy adopted under IDEA section 637(a)(9), 34 CFR §303.148(b)(1) and OSEP's 2004 *Letter to Elder*, which final policy was submitted to OSEP on June 19, 2008, and determined that the State's opt-out policy is consistent with Part C requirements.

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 has a final cost allocation plan that has been approved by your agency's cognizant Federal agency and is effective until your agency renegotiates a new cost allocation plan with your cognizant Federal agency. Section IV.B of your State's Part C Application indicates that your agency will continue to apply the currently approved cost allocation plan throughout the FFY 2008 grant year until a new cost allocation plan is negotiated and approved by the State lead agency's cognizant Federal agency. Please forward to us any revisions to your agency's cost allocation plan once it is approved by your cognizant agency.

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,



William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

Enclosure A

cc: Part C Coordinator