



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

JUL - 8 2009

Honorable Rhonda M. Meadows, MD
Commissioner
Georgia Department of Community Health
2 Peachtree Street, NW
Atlanta, GA 30303-3159

Dear Commissioner Meadows:

This is to inform you that we have conditionally approved Georgia's application for Federal Fiscal Year (FFY) 2009 funds under Part C of the Individuals with Disabilities Education Act (IDEA or Part C). The effective date of Georgia's FFY 2009 Part C grant award is July 2, 2009. Our conditional approval is based on our review of the application submitted by Georgia's new lead agency under Part C, the Georgia Department of Community Health (DCH), to the U.S. Department of Education, Office of Special Education Programs (OSEP) on July 2, 2009, including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, which is incorporated by reference to this letter as Enclosure A. In addition, DCH provided the following specific assurances that it will:

1. Operate consistently 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 2009 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, and applicable regulations, 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, 2010. Section II of the State's application identifies the IDEA requirements 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 and applicable regulations. Within Section II, the State has included for each requirement that it cannot meet at this time, 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 and applicable regulations.

The conditional approval for Georgia's FFY 2009 Part C grant is also based on the State's assurance documents dated June 17, 2009 and July 1, 2009 from DCH in which it specifically assured that the State shall:

- a. Submit to OSEP, by September 30, 2009, DCH's Opt-out to LEA notification policy that meets the requirements in Attachment A to OSEP's June 5, 2009 Memorandum;

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- b. Notify its early intervention service (EIS) programs, the BCW (Babies Can't Wait) districts, of the State's findings of noncompliance and include in that notice of findings document the requirement that the BCW district correct such findings as soon as possible, but no later than one year from DCH's notification document and that DCH will also verify EIS program correction of findings within that one-year time period;
- c. Throughout the period of the State's FFY 2009 Part C grant award, implement the general supervision requirements of IDEA section 635(a)(10) and 34 CFR §303.501, including providing in the State's FFY 2008 APR, due February 1, 2010, the information required by OSEP's February 23, 2009 verification letter and OSEP's June 1, 2009 FFY 2007 APR response letter;
- d. Provide to OSEP by September 30, 2009 a DCH memorandum that informs all DCH Part C staff, parents, and EIS programs, EIS providers, and parents of eligible children of the requirements of OSEP's June 5, 2009 memorandum;
- e. Submit to OSEP by June 30, 2010 documentation that DCII has completed any needed changes to State statutes, regulations, and other written DCH policies and procedures to make them consistent with Part C as outlined in OSEP's June 5, 2009 memorandum;
- f. Ensure that the statewide system of early intervention required by Part C of IDEA in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303 will be in effect in Georgia throughout the FFY 2009 grant period;
- g. Ensure, as required in IDEA sections 635(a)(5) and 636 and 34 CFR §§303.321(e)(2)(i)(ii), 303.322(c)(1) and 303.342(a), that the Part C 45-day timeline begins on the date that Children First receives a referral, not the date that Part C, Babies Can't Wait, receives the referral from Children First; and
- h. Ensure that Georgia's Part C Babies Can't Wait program will finalize procedures for making local program determinations for FFY 2006 and FFY 2007 by December 31, 2009. Furthermore, DCH will provide documentation with its FFY 2008 APR due February 1, 2010 that it has met the specified timelines for making local program determinations and taking necessary enforcement actions.

Please note that as part of your State's application for FFY 2009, your State has made an assurance, pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2009 grant period. Any changes made by the State to its FFY 2009 application or Part C policies or procedures that are application requirements, after OSEP approval, must meet the applicable public participation requirements under Part C in 34 CFR §§303.110 through 303.113 and, if they are requirements under Section II.A, must also be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.

Enclosed is the State's regular grant award for funds currently available under the Omnibus Appropriations Act, 2009 for the Part C program. These funds are for use primarily in 2009-2010 and are available for obligation by States from July 2, 2009 through September 30, 2011 in accordance with 34 CFR §76.709.

In addition to these regular FFY 2009 Part C funds, the American Recovery and Reinvestment Act of 2009 (ARRA) provided a one-time large increment in IDEA Part C funding. The ARRA IDEA Part C grants are a supplemental appropriation to the regular IDEA Part C appropriation. The first 50 percent of the ARRA IDEA Part C funds were awarded to States on April 1, 2009 and the second 50 percent will be available to States by September 30, 2009. Please note that each State will be required to submit additional information that addresses how the State will meet the accountability and reporting requirements in section 1512 of the ARRA before it will be considered eligible to receive the second 50 percent of the ARRA funds. Together, a State's regular FFY 2009 IDEA funds and a State's ARRA IDEA Part C funds constitute a State's total FFY 2009 Part C allocation. Given the increased IDEA Part C FFY 2009 allocation to each State, States may wish to review carefully the guidance on the ARRA IDEA Part C grant awards, available at <http://www.ed.gov/fund/data/award/idea/arra/index.html>.

Section IV.B of the FFY 2009 application for Part C funds requested updated information about each State's restricted indirect costs. Your State indicated that DCH has a proposed cost allocation plan that the agency is in the process of having finalized and approved for the period: July 1, 2009 until June 30, 2010. In Section IV.B of the application, DCH indicated it will bill its IDEA Part C FFY 2009 grant funds based on this proposed cost allocation plan until it is approved for FFY 2009, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2009 grant funds. As noted in the Department's guidance to States, applying a cost allocation plan to the increased FFY 2009 Part C funds due to the ARRA (which may not have been considered in the rate proposal) could result in an over-recovery of indirect costs in the current period. We direct you to carefully review the responses to questions B-1 and B-2 in the guidance available at <http://www.ed.gov/fund/data/award/idea/arra/index.html> and direct questions regarding any adjustments to your cognizant agency or our Indirect Cost Unit. When a final cost allocation plan is approved for FFY 2009 that includes restricted indirect costs as required by 34 CFR §§76.560 through 76.569, please forward to our Indirect Cost Unit and to your OSEP State Contact: (1) a copy of the final cost allocation plan and (2) details of adjustments made to GAPS liquidations from the provisional or prior billing rate after approval of the cost allocation plan.

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.

The enclosed grant award for FFY 2009 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.

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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 black ink, appearing to read "Patricia J. Guard". The signature is written in a cursive style with a large initial "P".

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

Enclosure A

cc: Part C Coordinator