



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

JUL - 1 2010

Honorable James S. Stewart, III  
Commissioner  
Virginia Department of Behavioral Health and Developmental Services  
P.O. Box 1797  
Richmond, Virginia 23218-1797

Dear Commissioner Stewart:

We have conditionally approved Virginia's application for Federal Fiscal Year (FFY) 2010 funds under Part C of the Individuals with Disabilities Education Act (IDEA or Part C). Our conditional approval is based on our review of the application submitted by the Virginia Department of Behavioral Health and Developmental Services (DBHDS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 4, 2010, including policies, procedures, methods, descriptions, assurances, and certifications identified in Section II, which is incorporated by reference to this letter as Enclosure A. In addition, the State 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 IDEA Part C and its implementing regulations is, and will remain, in effect throughout the FFY 2010 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 IDEA Part C, 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, 2011. Within Section II of its application, 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 IDEA Part C.

OSEP's January 25, 2010 verification visit letter required that the State submit with its FFY 2010 IDEA Part C Application, due May 10, 2010:

1. A separate written assurance that the State calculated its effort for FFY 2008 under the IDEA Part C maintenance-of-effort (MOE) requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b) and included all State and local public expenditures on Part C early intervention, including those made by State agencies other than the Department of Behavioral Health and Developmental Services (DBHDS); and
2. A copy of the correspondence in which DBHDS informed its State audit office of the need to review under the State's Single Audit, conducted under the Single Audit Act, the

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State's procedures to ensure that the State is tracking expenditures to meet the IDEA Part C MOE requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b) and specifically included all State and local public expenditures on Part C early intervention, including those made by State agencies other than DBHDS.

With its FFY 2010 Part C application, the State provided the required MOE assurance and correspondence with the State's audit office. No further action is required.

OSEP's verification visit letter also required that the State submit, with its FFY 2010 Part C application, an updated interagency agreement between the Virginia Department of Education (VDOE) and DBHDS that addressed the transition requirements in IDEA sections 612(a)(9), 614(d)(2), 636(a)(3) and 637(a)(9) and applicable regulations in 34 CFR §§300.124, 300.321(f), 300.323(b), 303.148, and 303.344(h). The State indicated under Section II.A.3 of its FFY 2010 Part C application that it would submit the updated and signed interagency agreement by September 30, 2010. When OSEP receives the signed agreement, it will review the State's submission and respond to the State under separate cover.

Please note that as part of your State's application for FFY 2010, 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 during the FFY 2010 grant period. Before adopting a new or revised IDEA Part C policy or procedure that is required under Section II.A of the State's FFY 2010 application, the State must subject those policies and procedures to the public participation requirements in 34 CFR §§303.110 through 303.113 and receive OSEP approval for them prior to their implementation.

Enclosed is the State's FFY 2010 grant award for funds available under the Consolidated Appropriations Act, 2010 – P.L. 111-117 for the Part C program. These funds are available for obligation by States from July 1, 2010 through September 30, 2012 in accordance with 34 CFR §76.709.

Section IV.B. of the FFY 2010 application for Part C funds requested updated information about each State's indirect costs. Your State indicated that DBHDS is not charging and will not charge indirect costs to its IDEA Part C FFY 2010 grant. By accepting this IDEA Part C FFY 2010 grant, your agency (as the lead agency designated under Part C) is agreeing not to charge indirect costs to any funds awarded under this FFY 2010 Part C grant.

Section 604 of the IDEA provides that "[a] State shall not be immune under the 11<sup>th</sup> 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, your 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 of FFY 2010 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if

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necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to Part C.

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 "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" written in a larger, more prominent script than the last name "Posny".

Alexa Posny, Ph.D.

Acting Director

Office of Special Education Programs

Enclosure

Enclosure A

cc: Part C Coordinator