



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

JUL - 1 2011

Honorable Terri Delgadillo
Director
Department of Developmental Services
California Health and Human Services Agency
1600 9th Street, Room 240, MS 2-13
Sacramento, California 95814

Dear Director Delgadillo:

We have conditionally approved California's application for Federal Fiscal Year (FFY) 2011 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our conditional approval is based on our review of the application submitted by the California Department of Developmental Services (DDS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 11, 2011, including the 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 IDEA 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 2011 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, 2012. 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.

The conditional approval for California's FFY 2011 IDEA Part C grant is based on the State's May 16, 2011 assurance and its assurance in Section II. B.5 of its FFY 2011 IDEA Part C application, in which the State specifically assured that it shall "revise Title 17, California Code of Regulations, §52086(d), to clarify that there are no "extensions" to the 45-day timeline requirement as indicated in Federal Regulations §§303.321(e)(2), 303.322(e)(1), and 303.342(a)." This assurance was provided in response to OSEP's February 15, 2011 California Part C Verification Visit Letter, which required the State to submit, with its FFY 2011 Part C

application, an assurance that it will revise by May 1, 2012, Title 17 of the California Code of Regulations, section 52086(d), to make clear that there are no “extensions” to the 45-day timeline requirement in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a). In its May 16, 2011 response to OSEP’s February 15, 2011 Verification Visit Letter and Enclosure, the State assured that it will amend Title 17, Section 52086 of the California Code of Regulations. In Section II.B.5 of its FFY 2011 Part C application, the State also provided the required assurance.

Additional issues in OSEP’s February 15, 2011 Verification Visit Letter and Enclosure were resolved in the State’s May 16, 2011 submission and confirmed in the State’s June 2011 determination letter.

Please note that as part of your State’s application for FFY 2011, 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 2011 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 2011 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 2011 grant award for funds currently available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 -- P.L. 112-10 for the IDEA Part C program. These funds are available for obligation by States from July 1, 2011 through September 30, 2013 in accordance with 34 CFR §76.709.

Section IV.B of the State FFY 2011 application for Part C funds requested updated information about each State’s restricted indirect cost rate. Your State indicated that DDS has a provisional restricted indirect cost rate of 20.6% that expires on June 30, 2011, and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2011 grant period. In Section IV.B, your agency indicated it will continue to bill the IDEA Part C FFY 2011 grant based on this provisional restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2011, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2011 grant funds. When a final restricted indirect cost rate is approved for FFY 2011, please forward to our Indirect Cost Unit and to your OSEP State Contact: (1) a copy of the final restricted rate agreement; and (2) details of adjustments made to GAPS/G-5 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 11th 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.

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The enclosed grant award of FFY 2011 funds 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 may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part C.

As a reminder, within 30 days of July 1, 2011, all prime recipients of IDEA (Part B or Part C) funds, must report subaward information as required by the Federal Financial Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State's Recovery Act Facilitator if you have further questions.

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 that reads "Melody Musgrove". The signature is written in a cursive style with a long horizontal line extending to the right.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosure

Enclosure A

cc: Part C Coordinator