



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

JUL - 1 2011

Honorable Nirav R. Shah, M.D., M.P.H.
Commissioner of Health
New York State Department of Health
Corning Tower, Empire State Plaza, 14th Floor
Albany, New York 12237

Dear Commissioner Shah:

We have approved your State's application for Federal Fiscal Year (FFY) 2011 funds, under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our approval is based on our review of the application, submitted by the New York State Department of Health (NYSDOH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 10, 2011 and June 1, 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. This includes the assurance from the NYSDOH that the statewide system of early intervention services required by IDEA Part C under 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303 is, and will remain, in effect throughout the FFY 2011 grant period.

OSEP's approval of New York's IDEA Part C FFY 2011 grant is also based on the approval of NYSDOH's June 17, 2010, September 16, 2010, November 8, 2010, and May 31, 2011 submissions and June 6, 2011 clarification. The May 31, 2011 submission reported that the State had revised the NYS Public Health Law, Article 25, Title 2-A, IFSP on February 22, 2011, to be consistent with the requirements in 34 CFR §§303.342 and 303.343 and to complete the actions required by the specific assurance to the State's FFY 2010 IDEA Part C application.

Following OSEP's review of the revised statutory language, OSEP requested clarification regarding the exceptional circumstances provision referenced in NYS Public Health Law §2545, which requires that an initial IFSP meeting "shall be held no later than forty-five days from the date that the early intervention official was first contacted regarding the child, except under exceptional circumstances prescribed by the commissioner." NYSDOH provided the required clarification on June 6, 2011.

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.

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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 NYSDOH has a restricted indirect cost rate that expired on March 31, 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, including these dates: April 1, 2011 through March 31, 2012. In Section IV.B, your agency indicated it will continue to bill the IDEA Part C FFY 2011 grant based on this previously approved 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.

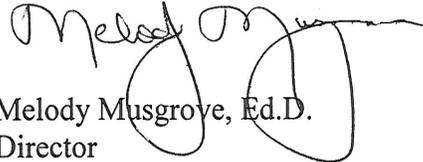
The enclosed grant award of FFY 2011 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities 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.

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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 "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

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

Enclosure

Enclosure A

cc: Part C Coordinator