



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

**JAN 30 2013**

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

Dear Director Delgadillo:

We have conditionally approved California's application for Federal Fiscal Year (FFY) 2012 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). The effective date of the grant is December 28, 2012. Our conditional approval is based on our review of the applications submitted by the California Health and Human Services Agency, Department of Developmental Services (HHS-DDS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on October 5, 2012 and December 28, 2012.

Our conditional approval of the State's FFY 2012 IDEA Part C grant is also based on the State's policies, procedures, methods, descriptions, assurances, and certifications identified in Section II, which is incorporated by reference to this grant award letter as Enclosure A. Our approval is also based on the State's certification under Section II.D of its FFY 2012 application that the State will:

1. Operate throughout the period of the FFY 2012 grant award consistently with the requirements of the IDEA as found in 20 U.S.C. 1431 through 1443 and the final regulations in 34 CFR Part 303 (as published on September 28, 2011); and
2. Make such changes to existing 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, 2013. *See*, 34 CFR §76.104.

The conditional approval for California's FFY 2012 IDEA Part C grant is also based on the State's October 5, 2012 letter in which the State specifically assured that it will revise by June 30, 2013, Title 17, California Code of Regulations (CCR) to clarify that there are no "extensions" to the 45-day timeline requirement contained in 34 CFR §303.310. This assurance was provided as a follow-up to the specific assurance in the State's FFY 2011 grant award letter and in further response to OSEP's February 15, 2011 California Part C Verification Visit Letter.

As part of your State's application for FFY 2012, your State has made an assurance, under Section II.C.2 of its FFY 2012 application and pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2012 grant period.

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*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Before adopting a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or the final regulations in 34 CFR Part 303, the State must subject those policies and procedures to the public participation requirements in 34 CFR §303.208 and receive OSEP approval for those policies and procedures referenced in 34 CFR §303.101(c) prior to their implementation.

Enclosed is the State's FFY 2012 grant award for funds currently available under the Consolidated Appropriations Act, 2012 -- P.L. 112-74 for the IDEA Part C program. Although FFY 2012 funds are generally available for obligation by States from July 1, 2012 through September 30, 2014 in accordance with 34 CFR §76.709, as noted above, the effective date of California's grant is December 28, 2012.

Section IV.B of the State FFY 2012 application for Part C funds requested updated information about each State's restricted indirect cost rate. Your State indicated in Section IV.B that HHS-DDS has a provisional restricted indirect cost rate of 25% that expires on June 30, 2013, and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2012 grant period. In Section IV.B, your agency indicated it will continue to bill the IDEA Part C FFY 2012 grant based on this provisional restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2012, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2012 grant funds. When a final restricted indirect cost rate is approved for FFY 2012, 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 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 2012 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, no later than the end of the following month from when the award was made or obligated, all prime recipients of IDEA (Part B or Part C) funds, must report subaward information as required by the Federal Funding 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