

July 1, 2016

Honorable Howard Zucker, M.D., J.D.
Commissioner
New York State Department of Health
Corning Tower, Empire State Plaza, 14th Floor
Albany, New York 12237

Dear Commissioner Zucker:

We have conditionally approved New York's application for Federal fiscal year (FFY) 2016 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our conditional approval is based on our review of the IDEA Part C application, submitted by the New York State Department of Health (NYSDOH) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on April 20, June 21, and June 30, 2016.

Our conditional approval of the State's FFY 2016 IDEA Part C grant is also based on the State's policies, procedures, methods, descriptions, assurances, and certifications identified in Section II.A, II.B, and II.C, which is incorporated by reference to this grant award letter as Enclosure A.

Our conditional approval is also based on the State's certification in Section II.D of its FFY 2016 IDEA Part C application, in which the State certifies under 34 CFR §76.104 that it will:

1. Operate throughout the period of the FFY 2016 grant award consistently with the requirements of the IDEA Part C as found in 20 U.S.C. §§1431 through 1443 and the regulations in 34 CFR Part 303; 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 either the date indicated by the State in Section II.A or B of its application or June 30, 2017, whichever is earlier.

Enclosed is the State's FFY 2016 grant award for funds currently available under the Consolidated Appropriations Act, 2016, P.L. 114-113 for the IDEA Part C program. These funds are available for obligation by States from the effective date of the grant award, July 1, 2016 through September 30, 2018 in accordance with 34 CFR §76.709.

Section IV.B of the IDEA Part C FFY 2016 application requested updated information about how your lead agency implements the restricted indirect cost rate requirements in 34 CFR §303.225(c). Your State indicated in Section IV.B that NYSDOH has a restricted indirect cost rate that expired on March 30, 2015, and the State lead agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2016 grant period. In Section

IV.B, your lead agency also indicated it will continue to bill IDEA Part C FFY 2016 grant funds based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2016. This letter confirms that, under 2 CFR §200.210(a)(15) and by accepting this IDEA Part C FFY 2016 grant, your State will continue to bill the IDEA Part C FFY 2016 grant funds based on this previously approved restricted indirect cost rate, to the extent authorized by your cognizant Federal agency, until a final restricted indirect cost rate agreement is approved for FFY 2016. When a final restricted indirect cost rate is approved by NYSDOH's cognizant Federal agency for FFY 2016, you must forward a copy of it to our Indirect Cost Unit and to your OSEP State Lead.

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 2016 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.

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

As a reminder, all prime recipients of IDEA Part C funds, must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State's Fiscal Accountability 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,

/S/

Ruth E. Ryder
Acting Director
Office of Special Education Programs

Enclosure

Enclosure A

cc: Part C Coordinator