

July 1, 2017

Honorable Chris Jones
Executive Director
North Dakota Department of Human Services
State Capital, Judicial Wing
600 East Boulevard Avenue
Department 325
Bismarck, North Dakota 58505-0520

Dear Honorable Jones:

We have approved North Dakota's application for Federal fiscal year (FFY) 2017 funds, under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our approval is based on our review of the IDEA Part C application, submitted by the North Dakota Department of Human Services (DHS) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on June 2, 2017.

Our approval of the State's FFY 2017 IDEA Part C grant includes approval of 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 approval is also based on the State's certification in Section II.D of its FFY 2017 application that the State's provisions meet the requirements of IDEA Part C as found in 20 U.S.C. §§1431 through 1443 and the regulations in 34 CFR Part 303, and that the State will operate its Part C program in accordance with all of the IDEA Part C requirements including required policies, procedures, methods, descriptions, assurances and certifications. See 34 CFR §76.104.

Enclosed is the State's FFY 2017 grant award for funds currently available under the Consolidated Appropriations Act, 2017, P.L. 115-31 for the IDEA Part C program. These funds are available for obligation by IDEA grant recipients from July 1, 2017 through September 30, 2019 in accordance with 34 CFR §76.709.

Under IDEA section 605, 2 CFR Part 200, and 34 CFR §303.104, the State must obtain prior approval to charge the following expenses as direct costs: (1) equipment (2 CFR §200.33 and 34 CFR §303.104); (2) participant support costs (2 CFR §200.75); (3) construction/renovation (2 CFR §200.12(b) and 34 CFR §303.104); and (4) rent (2 CFR §200.465 and 34 CFR §303.225(d)). OSEP's approval of the FFY 2017 IDEA Part C grant application does not constitute approval for any costs that fall into these categories that are listed in Section III of the grant application. For any direct costs the State proposes under these categories in Section III of its FFY 2017 IDEA Part C grant application, OSEP will review and respond after July 1, 2017 through a separate approval process.

Section IV.B of the IDEA Part C FFY 2017 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 DHS has a cost allocation plan that was approved by your cognizant Federal agency. Under IDEA Part C, the Department must ensure that the State's cost allocation plan meets the restricted indirect cost requirements in 2 CFR §200.210(a)(15) and 34 CFR §303.225(c). Approval of the State's IDEA Part C FFY 2017 grant application is not an indication that the State's cost allocation plan meets these restricted indirect cost requirements. OSEP and the Department's Indirect Cost Unit will work with the State to ensure that its cost allocation plan meets the applicable restricted indirect cost requirements.

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 2017 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 revises those IDEA Part C policies or procedures that are required under Part C of the IDEA or the 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.

As a reminder, 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. 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