

July 1, 2018

Honorable Joshua Baker
Director,
South Carolina Department of Health and Human Services
P.O. Box 8206
Columbia, South Carolina 29202

Dear Director Baker:

We have conditionally approved South Carolina's application for Federal fiscal year (FFY) 2018 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 South Carolina Department of Health and Human Services (SCDHHS) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on June 21, 2018 and June 25, 2018.

Our conditional approval of SCDHHS's FFY 2018 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 SCDHHS's certification in Section II.D of its FFY 2018 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 2018 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, 2019 whichever is earlier.

South Carolina's IDEA Part C FFY 2018 grant award is being released subject to Specific Conditions to ensure that the State is in compliance with a number of IDEA Part C requirements that are set forth in Enclosure B, which is incorporated by this reference into this grant award letter.¹ The Specific Conditions are imposed pursuant to the Department's authority in IDEA sections 616(g) and 642 and 2 CFR §§ 200.207 and 3474.10. By accepting this grant award, South Carolina expressly agrees to comply with the Specific Conditions identified in Enclosure B throughout the period South Carolina uses its IDEA Part C FFY 2018 funds. These Specific Conditions also apply to any outstanding funds available for obligation from South Carolina's FFYs 2016 and 2017 IDEA Part C grants.

¹In OSEP's letter transmitting the South Carolina's FFY 2017 IDEA Part C grant award, the term "Special Condition" was used in referring to the grant condition and reporting requirements imposed on the release of that grant award. For grant awards released in FFY 2018, the term "specific condition" replaces the term "special condition."

These Specific Conditions require SCDHHS to address the following four major areas of noncompliance identified in OSEP’s December 2017 monitoring letter.

South Carolina must:

1. Monitor, and ensure interagency coordination of, the early intervention program as required by IDEA sections 635(a)(10) and 640 and 34 CFR §§303.120, 303.501;
2. Provide early intervention services to eligible children and families in a timely manner as required by IDEA sections 633 and 634 and 34 CFR §303.342(e);
3. Provide valid and reliable data under IDEA sections 616, 618, 635(a)(14), and 642 and 34 CFR §§303.701(c) and 303.720; and
4. Submit its State Systemic Improvement Plan as part of its Annual Performance Report, required under IDEA sections 616 and 642 and 34 CFR §303.700 through 303.708.

The first three areas were the subject of longstanding Special Conditions on South Carolina’s IDEA Part C grant (since FFY 2008 and part of a 2004-2007 compliance agreement with OSEP). During this period (from FFYs 2004 through 2017), South Carolina had three State lead agencies. SCDHHS is the third State lead agency designated as of July 1, 2017 to implement the IDEA Part C program in the State. OSEP monitored SCDHHS in August 2017 and OSEP’s December 2017 letter required SCDHHS to submit a corrective action plan (CAP) to address each area of noncompliance. SCDHHS submitted on May 14, 2018, and OSEP approved on June 1, 2018, a CAP that sets forth specific actions, timelines, and evidence of completion to address each of the four areas of noncompliance. OSEP’s Specific Conditions on South Carolina’s FFY 2018 IDEA Part C grant award, which are set forth in Enclosure B, incorporate the CAP and each of these actions, timelines and evidence of completion as part of the Specific Conditions.

Enclosed is the State’s FFY 2018 grant award for funds currently available under the Department of Education Appropriations Act, 2018, Title III of Division H, P.L. 115-141, for the IDEA Part C program. These funds are available for obligation by States from the effective date of the grant award, July 1, 2018 through September 30, 2020 in accordance with 34 CFR §76.709.

Under IDEA Section 605, and 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)). The State did not identify any such costs in Section III of its grant application. If the State plans to use its FFY 2018 IDEA Part C grant funds for such costs, it must submit a request for prior approval to which OSEP will respond separate from the grant letter.

Section IV.B of the IDEA Part C FFY 2018 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 SCDHHS is not charging and will not charge indirect costs to its IDEA Part C FFY 2018 grant funds. Under 2 CFR §200.210(a)(15), by accepting this IDEA Part C FFY 2018 grant, your State lead agency is agreeing not to charge indirect costs for the period that the State uses any funds awarded under this FFY 2018 IDEA Part C grant.

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 2018 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.

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

Enclosures

Enclosure A

Enclosure B

cc: Part C Coordinator