



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

NOV 8 2000

**Contact Persons**

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OSEP 01-3

**OSEP MEMORANDUM**

TO: Lead Agency Directors  
Part C Coordinators

FROM: Kenneth R. Warlick *Kenneth R. Warlick*  
Director  
Office of Special Education Programs

SUBJECT: Procedures for receiving a Fiscal Year (FY) 2001 grant award under Part C of the  
Individuals with Disabilities Education Act (IDEA)

**ACTION**

**REQUIRED:** Submission of Part C Application by **April 2, 2001**.

The purpose of this memorandum is to inform States of the procedures they are to follow in order to receive a grant under Part C of the IDEA for FY 2001 funds, which will become available to States on July 1, 2001. The package contains the instructions and forms needed for the completion of your State's application. It should be returned to the Office of Special Education Programs (OSEP) by April 2, 2001. The estimated FY 2001 State allocation table will be sent under separate cover by January 15, 2001.

Upon receipt and approval of the required certifications and information in the application, your State will be eligible to receive the FY 2001 Part C funds. If you have any questions related to this memorandum, please contact your Part C Project Officer or Larry Wexler at (202) 205-5390.

## I. Submission Requirements

### A. Submission Statement and Other Assurances, Certifications and Information

In order to demonstrate eligibility for the FY 2001 Part C grant award, a State must sign and submit the "Submission Statement for Part C of IDEA" in Appendix A.

In addition, if there is a change to the State's information supporting any of the following, please file a new certification, a copy of which may be obtained by contacting your OSEP Part C Project Officer.

1. ED Form 80-0013-Certifications Regarding Lobbying, Debarment, Suspension, and other Responsibility Matters; and Drug-Free Work Place Requirements
2. Standard Form 424B – Non-construction Programs
3. EDGAR §76.104 – State Eligibility
4. GEPA 427 – General Education Provisions Act

### B. Restricted Indirect Cost Agreement/Cost Allocation Plan

If your State's FY 2000 grant letter from the Department indicated that we had not received documentation that your Federal cognizant agency has approved your agency's restricted indirect cost rate proposal or cost allocation plan for this program, and you have not submitted such documentation covering Fiscal Years 2000 and 2001, please submit such documentation no later than the deadline date for this application. Because IDEA has a statutory requirement that prohibits the use of Federal funds to supplant non-Federal funds, the Education Department General Administration Regulations (EDGAR) at 34 CFR §§76.563-76.569 require that your agency use a restricted indirect cost rate for the Part C program. The cost principles contained in the Office of Management and Budget (OMB) Circular A-87 also apply. (Refer to OSEP Memorandum 99-2 for additional information.)

### C. Other requirements

In addition, each State is required to submit, by the dates indicated below, the following:

1. Part C annual data count as per OSEP Memorandum 00-11 dated March 27, 2000, (submitted to the attention of Cheryl Broady) and due to OSEP on August 31, 2001; and
2. Lead Agency's Annual Performance Report, as per OSEP Memorandum 01-2, dated November 8, 2000, due to this Office by December 31, 2000 (with the State Interagency Coordinating Council's (ICC) endorsement, if the ICC adopts the report in order to comply with 34 CFR §303.654). This report should provide the requisite information for the program period July 1, 1999 through

September 30, 2000. Please send the performance report directly to Larry Wexler, at the address below.

## II. Submission Options

A State must select the appropriate submission option on the "Submission Statement". A State must select either option 2 or 3 if there have been any changes in the State's policies and procedures, assurances, methods of implementation, or State law or regulations related to Part C implementation as described below. If a State selects option 2 or 3, it must ensure that the public participation requirements have been met.<sup>1</sup> If your State has adopted the Part B due process procedures, a copy of those procedures, as approved by OSEP, must be submitted with the Part C application.

### 1. No revisions to Application

A State may use this option only if all previously approved policies, procedures, assurances and other information comply with Part C as amended, remain in effect in the State and have not been changed. If a State previously submitted information related to use of funds as percentages of the total Federal allocation and has not made changes in these percentages, a revised budget is not required with this option. By choosing this application option, OSEP assumes that a State has **not** made changes in the percentages of the total Federal allocation. States are not required to re-submit a policy, procedure, statute, regulation or assurance already on file with OSEP that demonstrates compliance with Part C. Such a policy, procedures, statute or regulation remains in effect unless: (1) the State modifies the policy, procedure, statute or regulation; (2) an amendment is made to IDEA, or a Federal regulation issued under IDEA; (3) a new interpretation of IDEA is made by a Federal court or the State's highest court; or (4) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

### 2. Revisions

A State may use this option if there have been any changes in the State's policies and procedures, assurances, methods of implementation, or State law or regulations related to Part C implementation as described above. If a State previously submitted information related to use of funds as percentages of the total Federal allocation and makes changes in these percentages, a budget with the revised percentages must be submitted under this option. If a State previously submitted a line item budget (e.g. the State did not choose to submit its budget according to percentages), a revised budget in accordance with CFR §303.145 must be submitted with the application. Please submit for review and approval only supporting documentation for the revised policies and procedures or other supporting documentation of changes.

Any State that received a grant award letter conditionally approving its FY 2000 application must provide OSEP with appropriate documentation to demonstrate that the

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<sup>1</sup> The public participation requirements do not have to be met if the only amendment to a State's application under option 2 is related to use of funds.

conditions and other criteria outlined in the FY 2000 grant award letter have been met. Documentation to address the FY 2000 conditional approval should be sent to OSEP prior to, or included in, the FY 2001 application submission.

3. New Application. A State may submit a new application.

### **III. Submission Procedures**

#### **A. Public Participation Requirements**

The public participation requirements in 34 CFR §§303.110 - 303.113 and section 441 of the General Education Provisions Act (GEPA) apply to applications submitted under Part C. In accordance with the GEPA requirement, the State must assure that it will provide reasonable opportunities for participation by local agencies, representatives of the class of individuals affected by this program and other interested institutions, organizations, and individuals in the planning for the operation of this program. (See 20 USC 1232d(b)(7))

States are required to meet the public participation requirements under Part C and GEPA both for changes in applications required by this Department, and relevant changes that the State makes on its own. Prior to the adoption of a new or revised policy or procedure that is not in its current application, a State must publish the application with the revised policy in a manner that will ensure a 60-day circulation of the application throughout the State, provide adequate notice of the public hearings, conduct the public hearings, and provide an opportunity for comment for at least 30 days from the general public, including individuals with disabilities and parents of infants and toddlers with disabilities. The lead agency must review and consider all public comments and make any modifications it deems necessary in the application or policy.

#### **B. Conditional Approval of FY 2000 Application**

As noted above, any State that received a grant award letter conditionally approving its FY 2000 application must provide OSEP with appropriate documentation to demonstrate that the conditions and other criteria outlined in the FY 2000 grant award letter have been met. Documentation to address the FY 2000 conditional approval should be sent to OSEP prior to, or included in, the FY 2001 application submission.

#### **C. Mailing Instructions**

Please submit an original and one copy of the State's application, which must be received by OSEP by April 2, 2001 to:

Larry Wexler, Deputy Director  
Division of Monitoring and State Improvement Planning  
Office of Special Education Programs  
U.S. Department of Education  
330 C Street, SW – Room 3630  
Washington, DC 20202-2640

For your convenience, the application may be submitted to this Office electronically on a 3 ½" disc formatted in Word '97. However, OSEP requires an original signature on the Submission Statement to be sent by mail.

#### **IV. Effect of Late Application**

OSEP enforces the provisions of 34 CFR §76.703, "When a State may begin to obligate funds," from the Education Department General Administrative Regulations (EDGAR), for Part C grant awards. The provisions of §76.703 implement the Cash Management Improvement Act (CMIA), 31 USC §6503, 31 CFR Part 205, which provides for the timely transfer of funds between Federal agencies and States, and authorizes payment of interest where transfers are not made in a timely fashion. See Appendix B. The following is a description of the process that OSEP uses to implement this regulation, with respect to processing the FY 2001 grant awards under Part C. The EDGAR regulations limit the circumstances under which the Department will retroactively authorize States to charge against the Part C grant program costs incurred before OSEP determines an application to be substantially approvable.

The EDGAR regulations provide that, generally, a State may not begin to obligate funds under a program until the later of the following two dates: (1) the date that the Secretary determines that the application is substantially approvable; or (2) the date that the funds are first available for obligation by the Secretary. 34 CFR §76.703(d) and (e). Consistent with this provision, grant award notification forms will indicate the start of the grant award period for applications received prior to July 1, 2001, as the later date of either: (1) the date that the Secretary determines that the State application is substantially approvable; or (2) the date that the funds are first available for obligation by the Secretary (i.e., July 1, 2001).

If a State has submitted a substantially approvable application by the deadline, the Federal funding period as noted in block 6 on the grant award notification will begin July 1, 2001. If the substantially approvable application is received after the deadline, but before July 1, 2001, the starting date for obligating funds will be July 1, 2001, provided that the Department determines that the application is substantially approvable prior to July 1, 2001. If not, the starting obligation date will be determined in accordance with the procedures in 34 CFR §76.703(e)(2).

If the State application has not been received by July 1, 2001, or the application that has been submitted is not substantially approvable, the grant award notification will indicate, as the start of the Federal funding period, the date when the Department determines that the application is substantially approvable.

For purposes of Part C applications for FY 2001, an application is "substantially approvable" when it meets, to the Department's satisfaction, the requirements in this application package. An application will not be "substantially approvable" until OSEP receives any clarifications, substantive amendments, or assurances requested by OSEP.

Please let me know if my staff or I may assist you in implementing the requirements of IDEA and meeting the application requirements for FY 2001 grants under Part C of the IDEA.

**Appendices:**            **A - Application for FY 2001 Funds**  
                                 **B - 34 CFR §76.703**

**cc: State Directors of Special Education**  
      **National Early Childhood Technical Assistance System (NEC\*TAS)**  
      **Regional Resource Centers (RRCs)**