



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

JUL - 2 2007

Honorable Carmen Hooker Odom  
Secretary  
North Carolina Department of Health and Human Services  
2001 Mail Service Center  
Raleigh, North Carolina 27699-2001

Dear Secretary Hooker Odom:

This is to inform you that we have conditionally approved North Carolina's Application for Federal Fiscal Year (FFY) 2007 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the North Carolina Department of Health and Human Services (DHHS) to the U.S. Department of Education, Office of Special Education Programs (OSEP) on April 17, 2007 and revised on June 28, 2007, including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided the following specific assurances that it will:

1. Operate consistent with the Part C requirements in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2007 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the State's policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, 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, 2008. Section II of the State's application identifies the IDEA statutory sections for which the State needs to amend any policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

The State's FFY 2006 Part C grant award included Special Conditions relating to two noncompliance areas: (1) the 45-day timeline under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); and (2) timely transition planning conferences under 34 CFR §303.148(b)(2)(i). The State's May 15, 2007 final progress report provided data indicating correction of noncompliance regarding the 45-day timeline and OSEP appreciates the State's efforts to ensure compliance with that requirement.

As detailed in Enclosure B to this letter, the State's May 15, 2007 Progress Report showed progress relating to compliance with Part C's requirement for timely transition planning conferences, but did not show compliance with that requirement. Therefore, the Department is imposing Special Conditions on the State's FFY 2007 grant award under Part C. The reasons for doing so and the specific conditions are detailed in Enclosure B. Acceptance by North Carolina of this grant award constitutes an agreement by the State to comply with the Special Conditions.

Enclosed is the State's grant award for funds currently available under the Department of Education FFY 2007 Appropriations Act for the Part C program. These funds are available for obligation by States from July 1, 2007 through September 30, 2009.

The enclosed grant award for FFY 2007 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 are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Please note that as part of your State's application for FFY 2007, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2007 grant period. Any changes made by the State to its FFY 2007 application or Part C policies or procedures that are application requirements, after issuance of this grant award, must meet the applicable public participation requirements under Part C of the IDEA in 34 CFR §§303.110 through 303.113 and if they are requirements under Section II.A must be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.

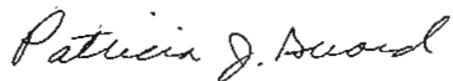
Section IV.B of the FFY 2007 application for Part C funds requested updated information about each State's restricted indirect cost rate. DHHS indicated in Section IV.B that it has a provisional restricted indirect cost rate of 3.8% for FFY 2007 and it will charge that rate to Part C FFY 2007 grant funds until a final restricted indirect cost rate is negotiated and approved by DHHS's cognizant Federal agency. A final restricted indirect cost rate may result in an adjustment of the final audited expenditures allowable to be charged to the Part C grant. The Department's issuance of this FFY 2007 grant award does not constitute approval of the provisional rate as the final rate for DHHS for the FFY 2007 period. When a final restricted indirect cost rate is approved, the lead agency must submit to OSEP: (1) a copy of the "final" restricted indirect cost rate agreement; and (2) details of adjustments made to past GAPS draw downs in light of the "final" rate.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh 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 a 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.

Page 3 – Honorable Carmen Hooker Odom

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 cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures:

Enclosure A

Enclosure B

cc: Part C Coordinator