



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

July 1, 2023

Honorable Teresa Atuatasi
Acting Director
American Samoa Department of Education
P.O. Box 2609
Pago Pago, American Samoa 96799

Dear Acting Director Atuatasi:

We have approved American Samoa's application for Federal fiscal year (FFY) 2023 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). The effective date of this grant award is July 1, 2023.

Our approval is based on our review of the IDEA Part B application submitted by the American Samoa Department of Education to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on June 15, 2023, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. Our approval is also based on American Samoa's certification in Section II.D of its FFY 2023 application (Enclosure B) that American Samoa's provisions meet the requirements of IDEA Part B as found in Public Law 108-446, and that American Samoa will operate its Part B program in accordance with all of the required assurances and certifications, consistent with 34 C.F.R. § 76.104.

In addition, our approval is based on American Samoa's submission of the form required under Section 427 of the General Education Provisions Act (GEPA). Going forward, for future IDEA grant applications, American Samoa must annually review and, if necessary and appropriate, revise its GEPA Section 427 form and submit the revised form as part of its grant application.

Please note that OSEP Memorandum 23-02, dated February 24, 2023, explained the impact of recent amendments to the Copyright Act, 17 U.S.C. § 121, on certain terms relevant to Assurance 23a or 23b related to accessible instructional materials as reflected in American Samoa's FFY 2023 application for funds under IDEA Part B. As a result, the term "blind and other persons with print disabilities" has been removed from the Copyright Act and replaced with "eligible person," and the term "specialized format" has been removed and replaced with the term "accessible format." Although at this time Congress has not made conforming amendments to Section 612(a)(23) of IDEA, the Department construes Assurances 23a and 23b as incorporating the terms "eligible person" and "accessible format."

American Samoa's FFY 2023 IDEA Part B grant award is being released subject to the Specific Conditions identified in the Department's June 29, 2023 letter to American Samoa, which is Enclosure D to this grant letter and hereby expressly incorporated into the terms of American Samoa's FFY 2023 IDEA Part B grant. These Departmentwide Specific Conditions and American Samoa's designation as a high-risk grantee are being imposed pursuant to the Department's authority in 2 C.F.R. §§ 200.208 and 3474.10 on all Department grants awarded to American Samoa (including the enclosed IDEA Part B grant award) to ensure that American Samoa expends Department grant funds in accordance with applicable legal requirements and

with appropriate fiscal accountability measures, management practices, and controls. By accepting the enclosed grant award, American Samoa expressly agrees to comply with the Specific Conditions identified in Enclosure D throughout the period that American Samoa uses its FFY 2023 IDEA Part B funds.

Please note that as part of its application for FFY 2023 IDEA Part B funds, American Samoa has provided a certification, pursuant to 34 C.F.R. § 76.104, that its application meets the requirements of IDEA Part B and that American Samoa will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by American Samoa, after OSEP approval, to information that is a part of American Samoa's Part B application, must meet the public participation requirements in 34 C.F.R. § 300.165.

Enclosed is American Samoa's FFY 2023 grant award for funds currently available under the Consolidated Appropriations Act, 2023 (Public Law 117-328) for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by States and entities from July 1, 2023, through September 30, 2025, in accordance with 34 C.F.R. § 76.709.

The amount shown in American Samoa's award for the Section 611 program is only part of the total funds that will be awarded to it for FFY 2023. Of the \$14,193,704,000 appropriated for Section 611 in FFY 2023, \$4,910,321,000 is available for awards on July 1, 2023, and \$9,283,383,000 will be available for awards on October 1, 2023.

Under the Section 611 formula, the Secretary reserves not more than one percent of the amount appropriated for FFY 2023 to provide assistance to the outlying areas in accordance with their respective populations of individuals aged three through 21 and to provide each freely associated State a grant in the amount that such freely associated State received in fiscal year 2003 under Part B of the IDEA.

Enclosure C provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure C shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

Under IDEA Section 605, the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Uniform Guidance) in 2 C.F.R. Part 200, and 34 C.F.R. § 300.718, American Samoa must request prior approval from OSEP for certain State-level activities or expenses.¹ American Samoa did not submit a participant support cost request with its grant application. If American Samoa plans to use its FFY 2023 IDEA Part B grant funds for such costs, and those costs fall outside of the scope of the 2019 FAQs, it must submit a request for prior approval to which OSEP will respond separate from the grant letter.

In Section V.A of its IDEA Part B application, pursuant to the authority in IDEA Section 618(a)(3), American Samoa was required to submit data on the total amount of American Samoa financial support made available for special education and related services for children with disabilities in American Samoa's State fiscal year (SFY) 2021 and SFY 2022. If OSEP receives

¹ States may find the following guidance helpful: (1) [OSEP's Guidance for Common Prior Approval Requests under IDEA Parts B and C](#) (January 3, 2023), and (2) [Frequently Asked Questions \(FAQs\) Prior Approval – OSEP and RSA Formula Grants](#) (October 29, 2019) ("2019 FAQs").

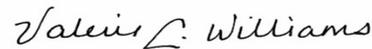
information through audits, fiscal monitoring or other means that raises questions about the data American Samoa has provided in Section V.A, OSEP will follow up with American Samoa.

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 the 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, American Samoa 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 2023 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 B.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,



Valerie C. Williams
Director
Office of Special Education Programs

Enclosures

- Enclosure A (Sections II.A-C. of American Samoa’s application)
- Enclosure B (Section II.D. of American Samoa’s application)
- Enclosure C
- Enclosure D (Departmentwide Specific Conditions)

cc: State Director of Special Education

State Name: American Samoa

Enclosure A

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<p>Yes <i>(Assurance is given Place a check as applicable.)</i></p>	<p>No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Enter date(s) as applicable</i></p>	<p>Assurances Related to Policies and Procedures</p>
X		<p>1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.</p>
X		<p>2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)</p>
X		<p>3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.</p>
X		<p>4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)</p>
X		<p>5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from</p>

		the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State

		educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E), as amended by the Every Student Succeeds Act; 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C), as amended by the Every Student Succeeds Act; 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); as amended by the Every Student Succeeds Act; 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)

X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
X		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under

		34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.
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B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	Certifications
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A)); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement

I certify that the State of American Samoa can make the assurances checked as 'yes' in Section II.A, and II.B, and the certifications required in Section II.C. of this application. These provisions meet the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) as found in PL 108-446 and the implementing regulations. The State will operate its IDEA Part B program in accordance with all of the required assurances and certifications.

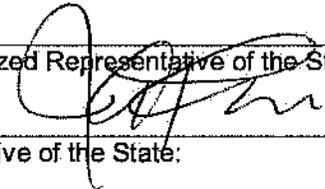
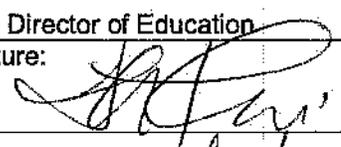
If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA, as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2024. (34 CFR § 76.104)

I, the undersigned authorized official of the

American Samoa Department of Education,

(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2023 funds under Part B of the IDEA.

Printed/Typed Name of Authorized Representative of the State:	
Dr. Teresa Leiato-Atuatasi	
Title of Authorized Representative of the State:	
Acting Director of Education	
Signature:	
Date:	5/24/23

Enclosure C
IDEA Grants to States Program
(Part B, Section 611)

Explanation of the Federal Fiscal Year (FFY) 2023 Allocation Table

Total Grant Award (Column B)

Column B shows your total grant award for the Grants to States program for FFY 2023 under the Consolidated Appropriations Act, 2023 (Public Law 117-328).

State total grants are calculated in accordance with several factors. First, each State is allocated an amount equal to the amount that it received for fiscal year 1999. If the total program appropriation increases over the prior year, 85 percent of the remaining funds are allocated based on the relative population of children aged 3 through 21 who are in the age range for which the State ensures the availability of a free appropriate public education (FAPE) to children with disabilities. Fifteen percent of the remaining funds are allocated based on the relative population of children aged 3 through 21 living in poverty who are in the age range for which the State ensures the availability of FAPE to children with disabilities. The statute also includes several maximum and minimum allocation requirements when the amount available for distribution to States increases.

If the amount available for allocation to States remains the same from one year to the next, States receive the same level of funding as in the prior year. If the amount available for allocation to States decreases from the prior year, any amount available for allocation to States above the fiscal year 1999 level is allocated based on the relative increases in funding that the States received between fiscal year 1999 and the prior year. If there is a decrease below the amount allocated for 1999, each State's allocation is ratably reduced from the fiscal year 1999 level.

Section 611 Base Allocation to LEAs (Column C)

Column C is the portion of the local educational agency (LEA) flow-through amount that must be distributed to LEAs based on the amounts that the LEAs would have received from FFY 1999 funds had the State educational agency (SEA) flowed through 75 percent of the State award to LEAs. Note that this amount is less than the minimum amount that States were required to provide to LEAs from FFY 1999 funds. The Part B regulations at 34 CFR §300.705(b)(2) clarify how adjustments to the base payment amounts for LEAs are made.

Maximum Set-Aside for Administration (Column D)

Column D includes the maximum State set-aside amount for administration. A State may reserve for State administration up to the greater of the maximum amount the State could reserve for State administration from fiscal year 2004 funds, or \$800,000, increased by inflation as reflected by the Consumer Price Index for All Urban Consumers (CPIU). The maximum State set-aside amount available for administration for FFY 2023 is a 6.0 percent increase over the maximum amount that was available for FFY 2022. Each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under this program or \$35,000, whichever is greater.

Maximum Set-Aside Available for Other State-Level Activities (Columns E - H)

The maximum level of funding that may be set aside from a State's total allocation for State-level activities, other than administration, is contingent upon the amount that the State actually sets aside for administration and whether the State opts to establish a LEA high-risk pool under IDEA, section 611(e)(3). For FFY 2023:

- (1) If the actual amount a State will set aside for State administration is over \$850,000 and the State will use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 10.0 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (2) If the actual amount a State will set aside for State administration is over \$850,000 and the State will not use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 9.0 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (3) If the actual amount a State will set aside for State administration is \$850,000 or less and the State will use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 10.5 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (4) If the actual amount a State will set aside for State administration is \$850,000 or less and the State will not use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 9.5 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.

SEAs are required to use some portion of these State set-aside funds on monitoring, enforcement, and complaint investigation and to establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel. In addition, States setting aside funds for a high-risk pool, as provided for under section 611(e)(3), must reserve at least 10 percent of the amount the State reserved for State-level activities for the high-risk pool.

SEAs also may use State set-aside funds: (1) for support and direct services, including technical assistance, personnel preparation, and professional development and training; (2) to support paperwork reduction activities, including expanding the use of technology in the individualized education program process; (3) to assist LEAs in providing positive behavioral interventions and supports and mental health services to children with disabilities; (4) to improve the use of technology in the classroom by children with disabilities to enhance learning; (5) to support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities; (6) for development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities; (7) to assist LEAs in meeting personnel shortages; (8) to support capacity building activities and improve the delivery of services by LEAs to improve results for children with disabilities; (9) for alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools; (10) to support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 1201 of the Elementary and Secondary Education Act of 1965 (ESEA); and (11) to provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA to children with disabilities, in schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of

the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 1111(b)(1) of the ESEA.

Section 611 Population/Poverty

The minimum amount that a State must flow through to LEAs based on population/poverty equals the total award (Column B) minus the LEA base allocation (Column C), the maximum amount available for administration (Column D), and the maximum amount available for other State-level activities (Column E, F, G, or H). Of this amount, 85 percent must be distributed on a pro-rata basis to LEAs according to public and private elementary and secondary school enrollment, and 15 percent on a pro-rata basis to LEAs according to the number of children in LEAs living in poverty, as determined by the State.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF FINANCE AND OPERATIONS
OFFICE OF ACQUISITION, GRANTS, AND RISK MANAGEMENT

June 29, 2023

Honorable Lemanu P.S. Mauga
Governor of American Samoa
Office of the Governor
A.P. Lutali Executive Office Building—3rd Floor
Pago Pago, American Samoa 96799

Dear Governor Mauga:

Enclosed are Federal Fiscal Year (FFY) 2023 specific conditions for U.S. Department of Education (Department) grants awarded to the American Samoa Government (ASG) agencies, including, but not limited to, the American Samoa Department of Education (ASDOE) and the American Samoa Department of Health (ASDOH). These specific conditions apply to all grants awarded by the Department to ASG on or after the date of these specific conditions.

The conditions also apply to all grants under the following programs awarded to any ASG agencies for FFY 2024: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973 (Rehabilitation Act)), Supported Employment (Title VI of the Rehabilitation Act), Client Assistance Program (section 112 of the Rehabilitation Act), Protection and Advocacy of Individual Rights (section 509 of the Rehabilitation Act), and Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs).

These specific conditions are also applicable to grant funds previously awarded by the Department to ASG that are still available for obligation or liquidation as of the date of these specific conditions.

Successful implementation and maintenance of a comprehensive and reliable financial and accounting system is a key element in accomplishing effective fiscal management and administration of Department grants. The specific conditions below are intended to facilitate this effort. In an effort to address systemic internal control deficiencies and limited capabilities of its core financial and accounting system, Integrated Financial and Accounting System (IFAS), at the beginning of fiscal year (FY) 2016, ASG initiated a two-year project - OneSolution upgrade for IFAS.

However, ASG has not yet demonstrated it has effectively resolved deficiencies in internal controls over timely reconciliations of various financial and accounting data to source documents to generate reliable financial reports for management review. Therefore, ASG's status as a "high-risk" grantee remains in effect under the Department's authority in 2 CFR §§ 200.207 and 3474.10. We look

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

forward to continuing our support and partnership with ASG to ensure such changes are implemented successfully, and to modify these specific conditions as progress is demonstrated.

The Department is committed to assisting ASG in its delivery of Federal education and other services to the residents of the territory through its continued improvement in the administration and management of the Department's grant funds. If you have any questions or require further assistance, please reach out to Patrick Smith at 202-987-1901 or via email at patrick.smith@ed.gov.

Sincerely,

Kerry Neal
Deputy Assistant Secretary
Office of Acquisition, Grants, and Risk Management

cc: Salo Ale, Lieutenant Governor
Kristi Thaxton, Legal Counsel

American Samoa Government – Specific Conditions
Federal Fiscal Years (FFY) 2023 and 2024¹

PREAMBLE: These specific conditions are imposed on all grants issued by the U.S. Department of Education (Department) for FFY 2023 to all recipient agencies of the Government of American Samoa (ASG) (including, but not limited to, the American Samoa Department of Education (ASDOE) and the American Samoa Department of Health (ASDOH)) and apply to all grants awarded by the Department to ASG (including, but not limited to, ASDOE and ASDOH) on or after the date of these specific conditions. These specific conditions also apply to all grants under the following programs awarded to any ASG agencies for FFY 2024: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973 (Rehabilitation Act)), Supported Employment (Title VI of the Rehabilitation Act), Client Assistance Program (section 112 of the Rehabilitation Act), Protection and Advocacy of Individual Rights (section 509 of the Rehabilitation Act), and Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs).

Additionally, the specific conditions apply to grant funds previously awarded by the Department to ASG (including, but not limited to, ASDOE and ASDOH) that are still available for obligation or liquidation on the date of these specific conditions. These specific conditions are applied to these program grants and funds in accordance with regulations governing specific conditions and “high-risk” grantees in 2 CFR §§ 200.207 and 3474.10 in the Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The specific conditions are imposed to help ensure that ASG’s awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures, management practices, and controls.

I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Uniform Guidance at 2 CFR §§ 200.207 and 3474.10, the Department has determined that ASG continues to be a “high-risk” grantee for purposes of these grant awards because of continuing problems in ASG’s fiscal and program accountability and related areas. Our conclusion is based on the following: the Department continues to be concerned about internal control deficiencies and material weaknesses in the operation of ASG’s internal control structure related to general accounting and grants administration. However, the Department is encouraged by ASG’s Fiscal Year (FY) 2020 audit report, which included an unqualified opinion over financial statements and Federal Department of Education major programs, as well as by ASG’s progress in implementing the corrective actions in its High-Risk Corrective Action Plan (HRCAP), as detailed in section II.A below. The Department looks forward to working with ASG as it continues its progress in completing the remaining corrective actions in its

¹ These specific conditions are considered FFY 2024 specific conditions only for purposes of the following programs: Vocational Rehabilitation, Supported Employment, Client Assistance Program, Protection and Advocacy of Individual Rights, and Independent Living Services for Older Individuals Who Are Blind. For all other programs to which they apply, they are considered FFY 2023

specific conditions including: physical inventory, fixed assets, trial balances, Federal funds policies and procedures and expansion of the One Solution system.

While recognizing the progress that ASG has made, because there are remaining deficiencies that ASG must address related to the management of Department funds, the Department is again imposing these specific conditions for FFY 2023 and for FFY 2024 for Rehabilitation Act programs, as set forth below.

II. SPECIFIC CONDITIONS

A. High-Risk Corrective Action Plan

1. ASG has made noted progress toward implementing all corrective actions in the HRCAP over the years. The Department has closed 12 action items from ASG's HRCAP including seven last year. Nine action items remain open, and the Department expects to review ASG's progress on, and confirm the implementation of, items 11.4 (Operational policies for monitoring Federal funds) and 15.2 (Expansion of OneSolution to all ASG agencies) during the planned September 2023 monitoring visit. The Department will also review other open items during the visit, as time permits.
2. ASG is required to continue to provide a semiannual report to the Department on its progress in implementing measures required pursuant to the HRCAP. The semiannual reports must include the current status of ASG's implementation of its remaining measures, including a description of activities and progress for each task during the reporting period, documentation of measures of performance and results, and other data or documentation as specified within the action steps for each task, and, if necessary, any changes in the targeted completion dates and/or person(s) responsible for ensuring that a particular corrective action is implemented. ASG must include in each semiannual report all edits and updates from each of its departments into one consolidated HRCAP report.
3. ASG must continue to submit the HRCAP reports to the Department no later than thirty days after the end of each semiannual period. Therefore, semiannual reports shall be submitted to the Department by April 30, 2024, for the period covering October 1, 2023, to March 31, 2024, and by October 31, 2024, for the period covering April 1, 2024, to September 30, 2024. ASG must ensure that its HRCAP report submissions are timely. If a report is not timely or is not considered acceptable by the Department, it may result in the Department taking one or more additional actions or imposing additional remedial requirements, including the following, for any applicable program(s): the reinstatement of quarterly reporting; the imposition of further conditions; the recovery of misspent funds; or the requirement for ASG to procure the services of a third-party fiduciary agent to provide fiscal management services.

Until such time as the remaining corrective actions in the HRCAP have been implemented and deficiencies and material weaknesses have been addressed, semiannual HRCAP

reports will continue to be required as stipulated above.

B. Single Audits

ASG shall continue to ensure that single audits are conducted on an annual basis in a timely manner and that reports, along with data collection forms, are submitted to the Federal Audit Clearinghouse within nine months after the end of each fiscal year. As such, ASG must complete its FY 2022 single audit timely and submit it to the Federal Audit Clearinghouse by June 30, 2023, in accordance with the Single Audit Act of 1984, as amended. The Department will continue to rely on ASG's single audits, along with monitoring conducted by the Department, to perform oversight of ASG's administration of Department grants. If, for any reason, ASG expects an audit or report to be delayed, it shall notify the Department of the reason and extent of the delay as soon as possible. Based on the information provided, the Department may take one or more additional actions or impose additional remedial requirements, including, but not limited to, the imposition of further conditions, the recovery of misspent funds, or the implementation of a contract with a third-party fiduciary agent to provide services.

C. Program-Specific Conditions

Program-specific conditions may be imposed on FFY 2023 grant awards (or FFY 2024 grant awards for Rehabilitation Act programs) made under one or more Department programs, in addition to the specific conditions that are contained in this document. Each such program-specific condition will be contained in a separate attachment to the grant award notification document provided by the Department to ASG.

D. Prompt Access

ASG shall promptly provide the Department with access to any requested staff, locations, records, and information associated with Federal and matching funds related to programs administered by the Department.

E. Failure to Comply with Conditions or Other Requirements

If the Department determines that ASG has not made substantial progress in meeting the objectives of the programs or has not met program requirements or the specific conditions contained in Sections II.A-D above, then the Department may consider not continuing the grant(s), taking further enforcement action steps, or applying additional conditions such as, but not limited to, the following:

1. ASG would receive no further funds under the grant award(s) or only on a reimbursement basis;
2. ASG would be required to prepare and submit a separate corrective action plan for each program in which problems have occurred or in which there is insufficient

progress; and

3. ASG would contract with a third-party fiduciary agent, which must be approved by the Department, to provide services or financial management under the grant award(s). The third-party fiduciary agent would, at a minimum, assist in preparing the vouchers to be submitted to the Department for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under the grant award(s).

These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other actions at any time.

III. OTHER TERMS

A. Submission of Reports

All reports and plans (including with respect to the HRCAP) that are required to be submitted by ASG to the Department under these specific conditions shall be submitted in electronic file format to Patrick Smith, Risk Management Specialist at patrick.smith@ed.gov. Any correspondence can also be mailed to:

Attn: Grants Risk Management Services Division
U.S. Department of Education
LBJ Building, 2nd Floor
400 Maryland Ave; SW
Washington, DC 20202

B. Reconsideration and Modifications

At any time, ASG may request reconsideration of the above specific conditions by contacting the Department and stating reasons why ASG believes particular conditions are no longer needed. Additionally, the Department may impose additional specific conditions or modify these specific conditions as appropriate. The Department will remove the specific conditions at such time as ASG meets, to the Department's satisfaction, the conditions contained herein.

Dated: June 22, 2023