

Enclosure C

Special Condition

1. Basis for Requiring a Special Condition

It is essential that special education teachers have the necessary qualifications in order to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities. Accordingly, section 612(a)(14) of the Individuals with Disabilities Education Act (IDEA Part B) requires each State to have in effect policies and procedures that the State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out IDEA Part B are appropriately and adequately prepared and trained and have the content knowledge and skills to serve children with disabilities.¹ 20 U.S.C. 1412(a)(14)(A). Since the IDEA was reauthorized and amended in 2004, IDEA has required all States to have in effect policies and procedures to ensure that special education teachers have specific qualifications. These special education teacher qualifications were retained, but moved from the former IDEA section 602(10) to IDEA section 612(a)(14)(C), when that section was amended in 2015 by the Every Student Succeeds Act (ESSA).² Specifically, IDEA section 612(a)(14)(C)(iii) continues, as in the past, the requirement for individuals employed as special education teachers in elementary school, middle school, or secondary school to hold at least a bachelor's degree. 20 U.S.C. 1412(a)(14)(C)(iii), as amended by ESSA. However, the Republic of Palau (ROP) has informed the Office of Special Education Programs (OSEP) that its policies and procedures require that individuals employed as special education teachers hold only an associate's degree, that seven of its special education teachers hold a bachelor's degree, and that its remaining special education teachers hold an associate's degree. Therefore, OSEP has determined that ROP did not comply with the terms and conditions of prior awards under IDEA Part B, and, pursuant to the authority in IDEA section 616(g) and 2 CFR §200.207, is imposing a Special Condition on ROP's FFY 2017 IDEA Part B grant award.

Specifically, following receipt of an email from Gregg Corr dated February 10, 2016, regarding the impact of ESSA on Assurance 14 in the annual IDEA Part B grant application, on March 3, 2016, and through subsequent email correspondence, ROP informed OSEP that it was unable to provide a "yes" response to Assurance 14 in its FFY 2016 IDEA Part B grant application because its current policies and procedures were not consistent with the special education certification requirements in IDEA section 602(10)(B) prior to the enactment of ESSA. ROP also reported that if it responded "no," it could not provide the specific assurance that OSEP had permitted a State to provide

¹ As used in this enclosure, the term "State" refers to the Republic of Palau (ROP).

² Section 9214(d)(2) of ESSA amended IDEA section 612(a)(14)(C) by incorporating the requirements previously in IDEA section 602(10)(B) that a person employed as a special education teacher in elementary school, middle school, or secondary school has obtained full State certification as a special education teacher (including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in §200.56(a)(2)(ii) of title 34, Code of Federal Regulations, as that section was in effect on November 28, 2008), or passed the State special education teacher licensing examination and holds a license to teach in the State as a special education teacher; the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and the teacher holds at least a bachelor's degree.

with its FFY 2016 Part B grant application in accordance with OSEP's February 10, 2016 email, because its current policies and procedures were not consistent with the special education teacher qualification requirements in IDEA section 612(a)(14)(C), as amended by ESSA.

In a memorandum dated May 20, 2016, OSEP required ROP to address its noncompliance with these special education teacher qualification requirements, and to submit, within 90 days of receipt of the memorandum, a plan that described the steps ROP would take during FFY 2016 to ensure that all special education teachers would hold at least a bachelor's degree by school year (SY) 2017-2018.

In response, ROP submitted its plan to OSEP on September 6, 2016. By memorandum dated January 17, 2017, OSEP informed ROP that OSEP could not accept the plan because it did not include information that would ensure that all special education teachers employed by ROP would hold a bachelor's degree by SY 2017-2018. Further, with regard to ROP's current policies and procedures that permit a special education teacher who has an associate's degree to receive a "provisional certificate" for three years with an option to extend for an additional two years," OSEP's response clarified that IDEA prohibits the waiver of special education teacher certification or licensure requirements on an emergency, temporary, or provisional basis. 20 U.S.C. 1412(a)(14)(C)(ii), as amended by ESSA. Further, OSEP clarified that while it would be permissible for a State to award provisional certificates to individuals who hold a bachelor's degree and are participating in an alternate route to special education certification that satisfies the requirements in 34 CFR §200.56(a)(2)(ii), ROP could not award provisional certificates to individuals who hold an associate's degree. Therefore, OSEP required that ROP revise its policies and procedures to eliminate the use of "provisional certificates" or revise the criteria to ensure that special education teachers who receive "provisional certificates" hold at least a bachelor's degree and are participating in an alternate route to certification that meets the requirements in 34 CFR §200.56(a)(2)(ii).

ROP has not submitted a plan consistent with IDEA section 612(a)(14)(C), as amended by ESSA, since the issuance of OSEP's January 17, 2017 memorandum.

2. Nature of the Special Condition

ROP must revise its policies and procedures to ensure that (i) special education teachers in ROP hold at least a bachelor's degree as required by IDEA section 612(a)(14)(C)(iii), as amended by ESSA; and (ii) provisional certificates are awarded only to special education teachers who hold a bachelor's degree and are participating in an alternate route to certification that meets the requirements in 34 CFR §200.56(a)(2)(ii), as required by IDEA section 612(a)(14)(C)(i), as amended by ESSA.

Pursuant to the Special Condition, ROP must provide a plan describing the steps it will take during FFY 2017 to ensure that all special education teachers will hold at least a bachelor's degree by SY 2017-2018, consistent with IDEA section 612(a)(14)(C)(iii), as amended by ESSA. The plan must include a timeline of activities that ROP intends to complete by March 31, 2018. ROP must submit a draft plan to OSEP within 60 days from the date of the letter transmitting ROP's FFY 2017 IDEA Part B grant award. Upon

OSEP's approval of ROP's draft plan, ROP must submit its final plan by November 1, 2017.

To ensure progress towards implementation of ROP's plan, and to enable OSEP to assess ROP's progress, ROP must provide the Department with progress reports during FFY 2017.

The reporting schedule is as follows:

1st Progress Report must be submitted with the FFY 2016 SPP/APR, due February 1, 2018. The reporting period for the first progress report is July 1, 2017, through December 31, 2017.

2nd Progress Report must be submitted by May 1, 2018. The reporting period for the second progress report is January 1, 2018, through March 31, 2018.

The parties may modify the schedule for the reports by mutual, written agreement.

In general, each Progress Report must include the steps ROP has taken in its plan to address the noncompliance. The Progress Report must include: (1) a description of activities, (2) the status of each activity that is scheduled to be completed during the reporting period, and (3) other information as requested by OSEP in order to verify completion of the action or assess the impact of the activity.

3. Evidence Necessary for the Condition to Be Removed

The Department will remove the Special Condition if, at any time prior to the expiration of the FFY 2017 grant year, ROP provides documentation, satisfactory to the Department, that it has met the requirements set forth above, which require ROP to submit data demonstrating compliance with the requirements of section 612(a)(14)(C) of the IDEA, as amended by ESSA.

4. Method of Requesting Reconsideration

ROP can write to OSEP's Acting Director, Ruth Ryder, at the address below, if it wishes the Department to reconsider any aspect of this Special Condition. The request must describe in detail the changes to the Special Condition sought by ROP and the reasons for those requested changes.

5. Submission of Reports

ROP must submit all required reports under the Special Condition to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Genee Norbert
550 12th St., SW Washington, DC 20202-2550