



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

Honorable Juan Flores
Superintendent of Education
Department of Education
Post Office Box
Hagtna, Guam 96932

FEB 28 2005

Dear Dr. Flores:

The purpose of this letter is to respond to Guam's May 2003 Self-Assessment, which was developed in conjunction with Guam's Steering Committee, and the March 31, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003. The Self-Assessment and APR are significant sources of data utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP) within the U.S. Department of Education. The APR reflects actual accomplishments made by Guam during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and territories, and result in high quality information across States and territories.

The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed Guam to address for Part B five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

Background

Guam submitted a Self-Assessment dated May 30, 2003 and, as requested, an Improvement Plan as part of its FFY 2002 APR (included as Appendix A), on April 2, 2004. Guam referred to data included in the Self-Assessment and Improvement Plan under applicable sections of the APR. OSEP provided informal verbal feedback on the Self-Assessment to Guam staff following OSEP's National Early Childhood Leadership Conference in Washington, D.C. in November 2003, and in May 2004 following OSEP's National Leadership Conference. OSEP also provided informal written feedback in an e-mail communication to the Guam Department of Education (GDOE) on May 7, 2004.

During the week of May 17, 2004, OSEP visited Guam to verify the effectiveness GDOE's systems for general supervision, data collection under section 618 of IDEA, and State-wide assessment. The results of this visit to Guam are summarized in a separate letter.

Because it is OSEP's intent to consolidate improvement planning and performance reporting activities, this letter includes OSEP's written response to Guam's Self-Assessment, Improvement Plan, and FFY 2002 APR for Part B.

The APR is intended to reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas (as well as any other areas identified by Guam to ensure improvement). OSEP's comments are listed by cluster area.

General Supervision

Timely Identification and Correction of Noncompliance. On page 2 in section 2 of the Self-Assessment, GDOE included information that indicated the following area of noncompliance: GDOE has no enforcement mechanism to ensure correction of persistent noncompliance in a timely manner (34 CFR §300.600 and 20 U.S.C.1232d (b)(3)). Page 2 in section 2 of the Self-Assessment included the following information, "Although the compliance review process includes steps for identifying and correcting deficiencies, there is no evidence of accountability and use of enforcement actions as necessary."

Under State Goal #2, 3, and 4 in the Improvement Plan, GDOE reported that it did not have sufficient data to determine if: (a) complaint and due process decisions were implemented to correct identified deficiencies; (b) deficiencies were corrected in a timely manner; or (c) enforcement actions were used when necessary to address persistent deficiencies. On page 2 under State Goal #2, Indicators GS.I.c and Li of the Improvement Plan, and page 3 of the APR, GDOE reported that it was unable to determine that *systemic issues* were identified and remediated through information and data collected from all available sources, including monitoring, complaint resolutions, and hearing decisions, and that it planned to develop a coordinated system for analysis of findings to identify and remediate systemic issues. In addition, GDOE reported that it plans to upgrade its data collection system to collect, compile, and report comparative performance data for children with and without disabilities.

Activities in the Improvement Plan under State Goal #2, 3, 4 and 5 to address these issues included: (a) develop and implement a comprehensive compliance database to generate reports for analysis of trend data, including mediations, due process hearings and monitoring reports; (b) revise the compliance review process to include an annual review of the process by external technical assistance providers, and progressive sanctions for persistent deficiencies; (c) coordinate a system for disseminating information and analyzing and correcting systemic issues; (d) provide assistance to schools to implement corrective actions; (e) initiate compliance validation visits to ensure timely implementation of efforts to correct deficiencies; and (f) revise the monitoring system to ensure appropriate special education and related services are provided to children with disabilities served in juvenile adult and correctional facilities. GDOE also provided targets, timelines and evidence of completion for these activities. For example, GDOE provided a target of 100% for implementing corrective actions issued as a result of decisions in complaint investigations, due process hearings and mediations, ensuring that schools respond with a corrective action plan within 45 days, and initiating validation visits in each school that submitted a corrective action plan to correct identified noncompliance by December 2004.

During the verification visit, OSEP reviewed five monitoring reports and found that the reports included corrective action plans, documentation of follow-up visits and correction of identified noncompliance within one year of identification. In the verification letter, OSEP reported that even though GDOE required correction of identified noncompliance within 12 months of identification, it did not have available viable sanctions that it could impose on schools for failure to correct identified noncompliance in a timely manner, thereby limiting its enforcement capability. OSEP also reported concern regarding the impact of insufficient staffing on GDOE's ability to implement its monitoring procedures, and the lack of an integrated data system to track compliance issues across the island.

Based on the information provided during the verification visit and the APR, OSEP could not determine if GDOE is complying with the requirement in 34 CFR §300.600(a)(2) and 20 U.S.C. 1232d(b)(3) to ensure the timely correction of identified noncompliance. In the next APR, due April 29, 2005, Guam must include data, along with its analysis and a determination of whether GDOE is complying with 34 CFR §300.600(a)(2) and 20 U.S.C. 1232d(b)(3). If the data demonstrate noncompliance, GDOE must include a plan, with strategies, proposed evidence of change, targets, and timelines designed to achieve compliance as soon as possible but not later than one year after OSEP accepts the plan.

Complaint Resolutions, Mediations, and Due Process Hearings and Reviews are Completed in a Timely Manner. Although the APR (in Attachment 1) and Improvement Plan provided conflicting data for the reporting period 2002-2003 related to due process hearing timelines, and insufficient data to determine compliance with complaint timelines, data provided by GDOE as part of OSEP's verification visit demonstrated compliance with timeline requirements under 34 CFR §§300.511 and 300.661.

On page 2 in section 2 of the Self-Assessment, GDOE stated, "there is evidence that complaints and due process hearing requests are resolved within required timelines..." However, in Attachment 1 of the APR, Guam included data that indicated that five of six complaints were completed within timelines, and of four hearings held during the 2002-2003 reporting period, all four decisions were issued *after* timelines and extensions expired. GDOE did not address these data in its explanation of progress or slippage. However, OSEP noted in its verification letter that based on a review of due process hearing and complaint logs for 2003-2004, and interviews with GDOE officials, complaints were resolved and due process hearing decisions were issued in 2003-2004 within required timelines.

GDOE must continue to report the data required in Attachment 1 in the next APR, due April 29, 2005.

Data Collection and Reporting. On page 3 of the APR, GDOE addressed efforts to ensure the collection and timely reporting of accurate data. In the verification letter, OSEP described GDOE's system of safeguards to ensure data accuracy, reliability and validity. For example, as reported in the APR and verified during OSEP's verification visit, GDOE assigned a consulting resource teacher to facilitate case management of all data for children with disabilities, and ensure accuracy through various levels of review conducted on a monthly basis. Guam also acknowledged challenges in reporting comparative data with general education. On page 3 of the

APR, GDOE reported that it would continue to upgrade special education procedures and practices to ensure collection and reporting of accurate and timely data. In the next APR, OSEP looks forward to reviewing the impact of GDOE's strategies in ensuring continued compliance and performance in this cluster area.

A Sufficient Supply of Personnel Available to Meet the Needs of All Children with Disabilities.

On page 21 in section 8 of the Self-Assessment, and under State Goal # 6 and 14 and Indicators G.S.IV/V.a of the Improvement Plan, Guam included data and information that indicated the following area of noncompliance: GDOE was not ensuring that, as required under 34 CFR §300.300, children with disabilities receive the special education and related services necessary to provide a free appropriate public education (FAPE) (34 CFR §300.121). Under 34 CFR §300.350(a), GDOE must provide special education and related services to a child with a disability in accordance with the child's IEP.

On page 21 in section 8 under BF. II of the Self-Assessment, Guam reported insufficient numbers of qualified secondary special education teachers and related services personnel. On page 4 in section 2 under GS.IV of the Self-Assessment, Guam reported that children served in regional programs and private schools were not receiving needed speech services and, on page 20 of section 2, that "inadequacies for the delivery of related services have occurred over several years with minimal to no movement although a known issue."

Under State Goal #6 and 14 and Indicators G.S.IV/V.a of the Improvement Plan, GDOE reported baseline data on the number of eligible children with disabilities that were not receiving needed related services as of December 31, 2003, as follows: 278 students were not receiving speech and language services; 45 children were not receiving occupational therapy services; and 6 children were not receiving physical therapy services. GDOE also reported that there were eight vacancies for resource teachers at the high school level. GDOE provided a target that, by December 2004, the number of eligible children with disabilities not receiving special education and related services would decrease, and that by March 2005, there would be "an increase of qualified special education teachers to deliver individualized instruction in a resource setting." GDOE also provided activities, timelines, resources and evidence of completion around reviewing and revising improvement strategies for recruiting, retaining, and training needed personnel. OSEP accepts these strategies. In the next APR, Guam must include data and analysis demonstrating progress toward compliance, and provide a final progress report to OSEP demonstrating compliance within 30 days of one year after the date of this letter.

In the next APR, due April 29, 2005, Guam must also provide OSEP with information to demonstrate that, although there are deficiencies due to an insufficient supply of qualified personnel to meet the needs of all children with disabilities, appropriate special education and related services are provided to meet the identified needs of children with disabilities as required by 34 CFR §§300.121, 300.300 and 300.350(a); or if Guam is unable to demonstrate that children with disabilities are receiving FAPE because of shortages in qualified personnel, then it must revise its Improvement Plan to include strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP approves the plan. Strategies should include dissemination of specific policy or practices regarding the provision of required related services

that are followed in the event of personnel shortages, along with any guidance or technical assistance provided to schools regarding the provision of related services when there are personnel shortages.

Procedural Safeguards Notice. On pages 1 and 9 in section 2 of the Self-Assessment, GDOE identified the following area of noncompliance: GDOE did not have a system in place to ensure that parents and eligible students with disabilities were aware of, and had access to, procedural safeguards.

Under 34 CFR 300.504(a), a copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum, upon: (1) initial referral for evaluation; (2) each notification of an IEP meeting; (3) reevaluation of the child; and (4) receipt of a request for due process under §300.507. Under 34 CFR §300.504(c), the procedural safeguards notice must meet the requirements of 34 CFR §300.503(c), including that the notice be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication. Under State Goal #1, Indicator GS.I.a of the Improvement Plan, GDOE included data from its review of IEPs regarding parent and student access to procedural safeguards. The results indicated that 92% of the IEPs documented evidence of parents receiving and understanding their rights upon initial evaluation and consent to placement, 46% documented that parents receive and understand their rights upon notification of IEP meetings, and 27% included documentation that the safeguards were either *orally* translated or that it was not feasible to do so. Guam's monitoring reports from 1999-2002 identified noncompliance related to procedural safeguards in 10% of the 30 schools monitored.

On pages 1 through 3 under State Goal #1 of the Improvement Plan, Guam included activities, timelines, targets, and resources focused on revising the compliance review process by obtaining feedback from parents and eligible students with disabilities through monitoring activities and focus groups, and training and awareness activities for school personnel and parents, and eligible students with disabilities. In the next APR, OSEP looks forward to reviewing the results of these strategies on GDOE's performance and compliance in this area. (Revisions to section 615(d)(1)(A) of IDEA made by the IDEA Amendments of 2004, which take effect on July 1, 2005, require that a copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only 1 time a year, except that a copy also must be given to the parents--(i) upon initial referral or parental request for evaluation; (ii) upon the first occurrence of the filing of a complaint under subsection (b)(6); and (iii) upon request by a parent.)

Based on the information in the FFY 2002 APR, OSEP could not determine if GDOE is complying with 34 CFR §300.504(c). GDOE must clarify why the notice was *orally* translated. Was the notice *orally* translated because it was not feasible to translate the written notice into the native language of the parents or because the native language or other mode of communication of the parent was not a written language? In the next APR, OSEP requests that GDOE provide data, along with a determination of compliance or noncompliance. If the data demonstrate

noncompliance with 34 CFR §300.504(c), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan.

Early Childhood Transition

The Self-Assessment and the Improvement Plan included data that indicated the following area of noncompliance: GDOE did not ensure that, by the third birthday of a child participating in early intervention programs under Part C of IDEA, and who will participate in preschool programs under Part B, an IEP, or individualized family service plan (IFSP) was developed and implemented (34 CFR §§300.132 and 300.121(c)).

On pages 2 and 3 in section 6 of the Self-Assessment, GDOE reported that, based on the 2002 IFSP file review of 33% of the IFSP files, 79% of children exiting the Part C program who were eligible for Part B services did not have a current IEP in place by their third birthday. On page 2 under State Goal #11, Indicator C/TB.I of the Improvement Plan, Guam included activities, targets, timelines, and evidence of completion to correct the noncompliance with 34 CFR §300.132(b). OSEP accepts these strategies. In the next APR, Guam must include data and analysis demonstrating progress toward compliance, and provide a final progress report to OSEP demonstrating compliance within 30 days of one year after the date of this letter.

Parent Involvement

Under Guam Public Law 27-17, the Superintendent of Education is responsible for establishing and maintaining an advisory panel on disabilities and for complying with IDEA requirements on membership and roles of the panel. (See page 7 under section 7 of the Self-Assessment.) On page 1 in section 7 of the Self-Assessment, Guam, identified noncompliance with this requirement. On page 8 under section 7, Guam reported that 50% of the panel membership included individuals with disabilities *and* parents of children with disabilities.

On page 5 of the APR, Guam identified one performance indicator for this cluster, “Percentage of parents participating in the State and local self-assessment process, advisory panels and steering committees.” In the Improvement Plan under State Goal #12, Indicator BP.I.c, Guam included information and data from parent input sessions and parent surveys and reported that, as of January of 2004, parents comprised 44% of membership on the panel. However, OSEP could not determine if the data indicated noncompliance because under 34 CFR §300.651(b), a majority of panel members must be individuals with disabilities *or* parents of children with disabilities. Therefore, OSEP could not determine if GDOE is complying with 34 CFR §300.651(b). In the next APR, due April 29, 2005, Guam must include data and its analysis, along with a determination of compliance or noncompliance with 34 CFR §300.651(b). If the data demonstrate noncompliance, Guam must include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time not to exceed one year from the date when OSEP accepts the plan.

Free Appropriate Education in the Least Restrictive Environment

Disproportionality. On pages 6 through 8 of the APR, Guam provided data and analysis of population and enrollment data that indicated “the ethnic breakdown of the total GDOE enrollment was comparable to the breakdown of students with disabilities for the 2000-2001 school year” and that “this finding has been consistent through this reporting period.” On page 8 of the APR, Guam noted that the population and enrollment data may be inaccurate based on the report finding that no Asian or Pacific Islanders, the majority population in Guam, were identified in the category of mental retardation, whereas 4% of American or Alaskan Natives, which represent the smallest population in Guam, were represented in this category.

34 CFR §300.755 requires that States that identify significant disproportionality on the basis of race in the identification of children with disabilities (including identification within particular categories of disability) or in placements into particular settings, must provide for the review and, if appropriate, revision of the policies, procedures and practices used in identification or placement to ensure that they comply with Part B. It is important to note that in addressing significant disproportionality related to identification under 34 CFR §300.755, it is appropriate to look at policies, procedures and practices in the referral, evaluation and identification process to determine if they are educationally appropriate consistent with the requirements of Part B and race neutral. Such an examination generally would include a review of the availability and use of pre-referral intervention services, the selection and use of evaluation instruments and materials, the selection and use of evaluation criteria, and the reasons for referral for special education evaluations.

The instructions to the FFY 2002 APR required States that identify significant disproportionality to report on the results of that review of, and any appropriate revisions to, policies, procedures and practices. In the next APR, GDOE must provide accurate data and report on its identification of significant disproportionality in identification and educational placements, and on the results and reviews of, and any appropriate revisions to, policies, procedures and practices.

Graduation and Drop-Out Rates. On page 6 in section 8 of the Self-Assessment, under Indicators BF.II.h and BF.II.i, GDOE reported that the “annual graduation rate of students with disabilities is not comparable to students without disabilities.” Data provided by GDOE indicated that from the 1997-1998 school year to the 2000-2001 school year, the graduation rate for students without disabilities was 93.5% compared to 48.3% for students with disabilities. Data were not provided for the 2002-2003 reporting period. On page 30 in section 8 of the Self-Assessment, Guam reported that the calculation method used to determine the graduation rates for students with disabilities might not be the same calculation method used to determine graduation rates for students without disabilities. On page 6 in section 8 of the Self-Assessment, Guam reported, “the average overall drop-out rate from 1997-1998 to the 2000-2001 school year was 9.8%.” Data were not provided for the 2002-2003 reporting period. On page 31 in section 8 of the Self-Assessment, Guam reported for 2001-2002, the drop-out rates for all students and for students with disabilities, but did not provide numbers or percentages to determine if drop-out rates for students with disabilities were comparable to drop-out rates for students without disabilities.

The instructions to the APR require the State to provide data on whether high school graduation

rates and drop-out rates for children with disabilities are comparable to graduation rates and drop-out rates for nondisabled children. Guam did not provide graduation and drop-out rates for the reporting period 2002-2003. In the next APR, Guam must provide data for the 2002-2003 and 2003-2004 reporting periods. In addition, Guam must clarify whether the calculation method used to determine the graduation and drop-out rates for students with disabilities is the same calculation method used to determine graduation and drop-out rates for students without disabilities, enabling Guam to make a true comparison of the graduation and dropout rates between students with and without disabilities. If Guam cannot submit this data in the next APR, Guam must submit a plan that includes strategies, proposed evidence of change, targets and timelines to describe how it intends to collect this data and resolve data collection differences to make a true comparison of graduation and drop-out rates between students with and without disabilities.

Suspension/Expulsion. Under State Goal #15, Indicator BF.III.a and b of the Improvement Plan, GDOE provided the following data and information: (1) no students were expelled from 1998-2001; (2) the rate of suspension for students with disabilities in the 1998-99 school year was below that for students without disabilities; of the students suspended, the rate of suspension was 16% of students with disabilities as compared to 84% for students without disabilities; (3) the rate of suspension for students with disabilities in the 2000-2001 school year was below that for students without disabilities; of the students suspended, the rate of suspension was 9% of students with disabilities as compared to 91% for students without disabilities. Specific data were not provided for the 2002-2003 reporting period.

Guam included strategies and timelines under State Goal #15, Indicator BF.III.a and b of the Improvement Plan to decrease the number of children with disabilities suspended/expelled by 10% of the previous year's data. While it is not inconsistent with Part B of the IDEA to include a numerical goal to decrease the number of children with disabilities suspended/expelled, Guam must continue to monitor to ensure that disciplinary decisions for all children are made in conformity with the requirements of Part B of IDEA (at 34 CFR §§300.520 through 300.529) and not based upon a numerical goal.

In the next APR, Guam must provide data for the 2002-2003 and 2003-2004 reporting periods. OSEP also looks forward to reviewing data and analysis in the April 2005 APR demonstrating implementation of strategies designed to improve performance in this area.

Participation of Children with Disabilities in State- and District-Wide Assessments. Guam included data in the Improvement Plan under State Goal #16, Indicator BF.IV.a-c that showed improvement in the participation rate of students with disabilities in general district-wide assessment programs with "test modifications and accommodations, as needed," from 56% in the 2001-2002 school year to 67% in the 2002-2003 school year. GDOE reported that for school year 2001-2003, "performance results (achievement gap) between students with disabilities and their nondisabled peers widened as the grade level increases in some areas of the general assessment."

Instructions for Sections A and D of Attachment 3 require that States report the number of students with IEPs who were enrolled in the grade. Sections B and E require States to report the

number of students with disabilities who took the regular and alternate assessment. The data provided by Guam indicated that more students with disabilities took the regular and alternate assessment than were reported as enrolled in Sections A and D. For example, 125 students with IEPs were enrolled in grade 3. However, Guam reported that 125 students with disabilities took the regular assessment and 9 students with disabilities took the alternate assessment. In the next APR, Guam must ensure that it is including all students with IEPs in Sections A and D and that it is following instructions for Attachment 3 when reporting assessment data.

In its verification letter, OSEP identified the following noncompliance: Guam did not report to the public with the same frequency and in the same detail as it reported on the assessment of nondisabled students, on the participation and performance on alternate assessments (34 CFR §300.139 and 20 U.S.C. §1412(a)(17)). Guam continues to have Special Conditions related to this requirement attached to its FFY 2004 grant. Guam must ensure that it is reporting on the participation and performance of children with disabilities taking the IEP-based alternate assessment. In addition, because Guam is reporting on the performance of students on the SAT9 at the district and school level, Guam must also ensure that it is reporting, at the district and school level, on the performance of students with disabilities taking the regular assessment and the performance of students taking the IEP-based alternate assessment, where the reporting would not result in the disclosure of performance results identifiable to individual children.

Early Language Communication, Pre-Reading, and Social-Emotional Skills of Preschool Children with Disabilities. On page 11 of the APR, GDOE indicated it did not currently collect data on this issue, but included a plan to collect the data. Guam included targets, activities, timelines and resources for addressing this requirement in the next reporting period. Guam projected that in the 2003-2004 reporting period and ongoing, it would implement “methods for assessing the early language/communication, pre-reading, and social-emotional skill development of preschoolers with disabilities.” Activities to achieve this target included developing and implementing: (a) a monthly internal review of documented progress of skills of preschoolers with disabilities; (b) a review of kindergarten pre- and post-skill assessments to assist in documenting the impact of services for preschoolers with disabilities who transition to kindergarten; and (c) a data-tracking system for documenting skill development.

Under 20 U.S.C. 1418(a)(2), States are required to provide information that the Secretary requires. Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA section 619 program is being measured based on the extent to which early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services are improving. In the FFY 2003 APR, due April 29, 2005, Guam must submit data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or revise its plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

Children With Disabilities Educated With Their Nondisabled Peers to the Maximum Extent Appropriate. Under State Goal #17, Indicator BF.V.a of the Improvement Plan, GDOE provided the following data: during school year 2003-2003, 40% of children with disabilities were placed outside the general education classroom between 21% and 60% of the day compared to the

national average of 29%. Data indicated that this percentage has increased from 37% in school year 1997-1998 to 40% in school year 2002-2003. Under State Goal #17.2, Indicator BF.V.a, GDOE provided preschool placement data that indicated a steady decrease in placements in separate settings. GDOE included under State Goal #17, Indicator BF.V.a of the Improvement Plan, targets “to decrease, to the maximum extent appropriate, the percentage of students with disabilities outside the general education classroom for more than 21% of the day by 5 percentage points in December 2004, and by enough percentage points to be comparable to the national average, by December 2005. While it is not inconsistent with Part B of the IDEA to include a numerical goal to decrease the percentage of students with disabilities outside the general education classroom, the State must continue to monitor to ensure that the IEP and placement decisions for all children are made in conformity with the requirements of Part B of IDEA (at 34 CFR §§300.340 through 300.350) and not based upon a numerical goal.

GDOE’s activities under State Goal #17 included reviewing and revising forms to ensure the discussion and appropriate documentation of the placement decision, conducting training with compliance review teams, school personnel, including preschool consulting resource teachers, and parents related to the evaluation, continuum of placement, least restrictive environment, present levels of performance, and the provision of modifications, supplementary aids and services, and support to school personnel. OSEP looks forward to reviewing data and analysis in the April 2005 APR demonstrating implementation of strategies designed to improve performance in this area.

Timely Evaluation and Identification. Under 34 CFR §300.343(b), each public agency must ensure that within a reasonable period of time following the agency's receipt of parent consent to an initial evaluation of a child- (i) The child is evaluated; and (ii) If determined eligible under this part, special education and related services are made available to the child in accordance with an IEP. States must ensure that the right of each student with a disability to receive FAPE is not denied or delayed due to the school district’s failure to conduct an initial evaluation within a reasonable period of time. (Under section 614(a)(1)(C)(i) of the IDEA Improvement Act of 2004, which takes effect on July 1, 2005, a State must determine whether a child is a child with a disability within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe.) Page 20 in section 8 of the Self-Assessment included the following statement: “GDOE has no regulatory or procedural timelines regarding completion of evaluations in a timely manner.” GDOE also reported that although the "Referral Data Tracking" indicated that there had been improvement, they did not conduct evaluations in a timely manner. Under State Goal #13, Indicator BF.I.f of the Improvement Plan, Guam reported that based on evaluation data collected from July 7, 2002, to June 30, 2003, the average timeline from a referral for evaluation to an eligibility determination was 109.5 days. GDOE established as a target that by December 2004, all Part B referrals would result in eligibility meetings within 60 days. GDOE identified activities under State Goal #13 to meet its target, including increasing the number of qualified personnel to conduct and interpret evaluations.

In the next APR, OSEP looks forward to reviewing implementation of these strategies and the resulting data demonstrating improved performance.

Secondary Transition

Under State Goal #18, Indicator BT.I.c of the Improvement Plan, Guam reported that it was unable to report on the performance indicators in this cluster area due to insufficient data. GDOE indicated that it would develop a database for collecting data related to transition services and postsecondary outcomes, and procedural guidelines for transition services, as well as train appropriate personnel on transition services and planning. In the next APR, OSEP looks forward to reviewing data related to transition services and postsecondary outcomes.

Conclusion

As stated above, in the next APR, due April 29, 2005, GDOE must:

(1) Provide data, along with analysis and a determination of whether GDOE is complying with the requirement in 34 CFR §300.600(a)(2) and 20 U.S.C. 1232d(b)(3) to ensure the timely correction of identified noncompliance. If the data demonstrate noncompliance, GDOE must include a plan, with strategies, proposed evidence of change, targets, and timelines designed to achieve compliance as soon as possible but not later than one year after OSEP accepts the plan;

(2) Provide data and analysis demonstrating progress toward compliance with the requirement in 34 CFR §300.300 to ensure a sufficient supply of personnel are available to meet the needs of all children with disabilities, and provide a final progress report to OSEP demonstrating compliance within 30 days of one year after the date of this letter. In addition, Guam must provide OSEP with information to demonstrate that, although there are deficiencies due to an insufficient supply of qualified personnel to meet the needs of all children with disabilities, appropriate special education and related services are provided to meet the identified needs of children with disabilities as required by 34 CFR §§300.121, 300.300 and 300.350(a); or if Guam is unable to demonstrate that children with disabilities are receiving FAPE because of shortages in qualified personnel, then it must revise its Improvement Plan to include strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP approves the plan;

(3) Provide data, along with a determination of whether GDOE is complying with the requirement in 34 CFR §300.504(c) to provide the notice of procedural safeguards in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. If the data demonstrate noncompliance with 34 CFR §300.504(c), GDOE must include a plan, with strategies, proposed evidence of change, targets, and timelines designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan;

(4) Provide data and analysis demonstrating progress toward compliance with the requirement in 34 CFR §§300.132 and 300.121(c) to ensure that, by the third birthday of a child participating in early intervention programs under Part C of IDEA, and who will participate in preschool programs under Part B, an IEP, or IFSP is developed and implemented, and provide a final progress report to OSEP demonstrating compliance within 30 days of one year after the date of this letter;

(5) Provide data and analysis, along with a determination of compliance or noncompliance with 34 CFR §300.651(b), to ensure a majority of the members of the State Advisory Panel are individuals with disabilities *or* parents of children with disabilities. If the data demonstrate noncompliance, Guam must include a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time not to exceed one year from the date when OSEP accepts the plan;

(6) Provide accurate data on disproportionality and report on the identification of significant disproportionality in identification and educational placements, and on the results and reviews of, and any appropriate revisions to, policies, procedures and practices;

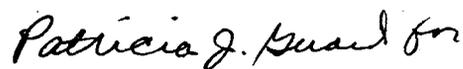
(7) Clarify whether the calculation method used to determine the graduation and drop-out rates for students with disabilities is the same calculation method used to determine graduation and drop-out rates for students without disabilities, enabling Guam to make a true comparison of the graduation and drop-out rates between students with and without disabilities. If Guam cannot submit this data in the next APR, Guam must submit a plan that includes strategies, proposed evidence of change, targets, and timelines to describe how the State intends to collect this data and resolve data collection differences to make a true comparison of graduation and drop-out rates between students with and without disabilities;

(8) Follow instructions for Attachment 3 when reporting assessment data; and

(9) Submit data (whether collected through sampling, monitoring, individual IEP review, or other methods) on early language communication, pre-reading, and social-emotional skills of preschool children with disabilities, targets for improved performance and strategies to achieve those targets for this area, or revise its plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

OSEP recognizes that the APR and its related activities represent only a portion of the work in Guam, and we look forward to collaborating with you as you continue to improve results for children with abilities and their families. If you have questions, please contact: Judith Gregorian at: (202) 245-7365, or judith.gregorian@ed.gov.

Sincerely,



Stephanie S. Lee

Director

Office of Special Education Programs

cc: Vincent Guerrero