



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

Honorable William Tabelual
Minister of Education
Ministry of Education
Republic of Palau
Post Office Box 189
Koror, Palau 96940

NOV - 1 2004

Dear Minister of Education:

The purpose of this letter is to respond to Palau's March 29, 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 APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source 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 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 the CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed States to address five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

Background

The Palau Ministry of Education (PMOE) submitted its Part B Self-Assessment (SA) in May 2003. PMOE developed an Improvement Plan (IP) to address areas identified in its Self-Assessment that needed improvement, including identified areas of noncompliance, and submitted it to OSEP in combination with its FFY 2002 APR in March 2004.

The State's APR should 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 the State to ensure

improvement). OSEP's comments regarding Palau's SA, IP, and the APR are listed by cluster area.

General Supervision

Timely Identification and Correction of Noncompliance

The IP and APR included data and information that indicated the following area of noncompliance: PMOE was unable to ensure that all educational programs for children with disabilities in Palau meet Part B requirements. Page 17 of Palau's IP stated that PMOE had "difficulties identifying and contracting with a qualified third party contractor" to conduct Part B monitoring. The result was that only three of 19 schools in Palau were monitored during the 1999-2000 school year and none were monitored during the 2000-2001 and 2001-2002 school years. PMOE indicated on page 17 of its IP that all remaining schools would be monitored by April 2004. Page four of the APR indicated that PMOE had monitored two schools and the early childhood program in Fall, 2002 and two additional schools in early 2003. On page 5 of the APR, PMOE indicated that it planned to complete monitoring of the remaining schools by May, 2004 and develop corrective action plans by June, 2004. Page 23 of Palau's IP stated that no specific corrective actions were developed for identified noncompliance in monitoring during the 1999-2000 school year. Through an analysis of PMOE's monitoring reports, projected timelines on page 5 of the APR, and the IP, OSEP concluded that PMOE had not taken steps to correct identified noncompliance in its schools and did not include a method of follow-up to ensure correction of identified noncompliance in a timely manner (i.e., within one year of identification). Under 34 CFR §300.600 and 20 U.S.C.1232d(b)(3) PMOE has a responsibility to monitor and ensure correction of identified deficiencies. Therefore, PMOE must submit an amended IP to OSEP within 60 days of the date of this letter, including strategies, proposed evidence of change, targets and timelines designed to ensure timely correction of identified noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward compliance, including current information on the number of schools monitored, the number requiring corrective action, the corrective actions taken to resolve noncompliance identified in schools, and corrective action not yet completed and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Identification and Remediation of Systemic Issues through the Analysis of Data from all Available Sources, including Monitoring

Page 5 of the APR indicated that PMOE "completed a review of available monitoring reports and identified six areas of concern that are being addressed system wide." In addition, PMOE stated that the completion of the SA resulted in identification of systemic issues. OSEP expects PMOE to continue to identify systemic issues through its monitoring process and report them in the FFY 2003 APR. OSEP looks forward to reviewing the results of PMOE's activities in the next APR.

Dispute Resolution System Ensures that Complaint Investigations, Mediations, and Due Process Hearings and Reviews are completed in a Timely Manner

The IP and APR included data and information that indicated the following area of noncompliance: PMOE did not ensure effective complaint processes are available to parents consistent with 34 CFR §§300.660-300.662, or that it had a system in place to track whether due process hearings met timelines consistent with 34 CFR §300.511. On page 6 of the APR, PMOE reported that logs and related procedures needed to be established and implemented for tracking and documenting complaints, mediations and due process hearings. Page 19 of the SA and page seven of the APR stated there were no procedures in place for processing, investigating, and resolving formal, written complaints. Page seven of the APR indicated that due process and mediation procedures were in place. PMOE must have processes and procedures in place to be consistent with Part B. On page 22 of the IP, PMOE included strategies and timelines designed to ensure compliance by the next APR. OSEP accepts these strategies to develop and implement procedures for resolving complaints and ensure that due process hearings are completed within timelines. Palau must provide evidence of correction of the noncompliance, including supporting data and its analysis, in the next APR.

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

The SA, IP and APR included information that indicated the following area of noncompliance: PMOE was not ensuring that, as required under 34 CFR §300.300, children with disabilities received the special education and related services necessary to provide a free appropriate public education (FAPE). On page eight of the APR, PMOE acknowledged that personnel needs were an area identified in the SA that “needs improvement.” The APR focused on improving and reporting the data associated with the education credentials of special education teachers. On page 24 of the IP, PMOE established strategies for improving the training for teachers and enrolling staff in the Related Services Assistant training program. However, Page 75 of the SA stated that no orientation and mobility training was available, even if a child with a disability needs this service. It also reported that there was no staff in Palau available or contracted to provide occupational therapy or orientation and mobility training. Page 83 of the SA indicated that children with disabilities who required behavioral supports did not receive these services because of a lack of qualified personnel able to interpret “behavioral health” written reports and staff trained to address children’s behavioral issues. In addition, the SA stated that children with disabilities might not have had the services necessary to receive FAPE because the needed services were not located on the island where the child lived.

Within 60 days of the date of this letter, PMOE must provide OSEP with information to demonstrate that appropriate special education and related services are provided for children with disabilities; or, if Palau determines that shortages in qualified personnel are resulting in lack of needed services for children with disabilities, then it must submit an

amended IP including 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 accepts the plan. The plan must focus specifically on ensuring an adequate supply of personnel for those services that are either unavailable in Palau or for which there is a shortage that could result in insufficient services for children with disabilities.

Collection and Reporting of Accurate and Timely Data

Palau's SA and page 20 of the IP indicated that the existing data collection system was not uniform and that a new data system was under development. On pages 25 through 26 of the IP, PMOE provided strategies, timelines, and resources for developing a new data collection system. In the FFY 2003 APR, PMOE must provide data and information demonstrating the implementation of the strategies.

Other Areas: Parent Rights Notice

On page 18 of the SA, PMOE identified noncompliance in the following area: the parent rights notice did not include all the procedural safeguards available to parents under 34 CFR §300.504. PMOE stated that it had not revised and updated its procedural safeguards handbook "Parents Rights to Special Education" to include the 1997 amendments to Part B and that it had not updated the procedural safeguards requirements. On page 21 of the IP, PMOE included strategies and timelines designed to ensure compliance by the next APR. OSEP accepts these strategies. Palau must provide evidence of correction of the noncompliance, including supporting data and analysis, in the next APR.

Other Areas: Interagency Responsibility

The SA and IP included information that indicated the following area of noncompliance: PMOE did not ensure that, as required by 34 CFR §300.142, an interagency agreement or other mechanism for interagency coordination was in effect between PMOE and the Ministry of Justice to meet the needs of children with disabilities in juvenile and adult correctional facilities who were identified as children with disabilities and who had IEPs in their last educational setting before incarceration. Page 31 of PMOE's SA stated that there was no "link" between special education and the Ministry of Justice. On page 18 of the IP, PMOE stated that there was no Memorandum of Understanding in place between the Ministry of Education and the Ministry of Justice for the provision of FAPE to children with disabilities incarcerated in correctional facilities. PMOE provided a plan on page 22 of the IP to correct this noncompliance; however, the plan does not include proposed evidence to demonstrate that children with disabilities in need of special education and related services in correctional facilities actually receive services once the plan is implemented. Therefore, PMOE must submit an amended IP to OSEP within 60 days of the date of this letter, including proposed evidence of change designed to demonstrate that FAPE is being provided to children with disabilities, incarcerated by the Ministry of Justice, within a reasonable period of time, not to exceed one year from the

date OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward compliance and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Other Areas: Child Find

Based on a review of the monitoring reports provided in Appendix A in PMOE's SA and page 28 of PMOE's SA, OSEP found that the primary means of referral to special education was through Maternal and Child Health, the Palau Parent Network, the Head Start program, and parent referral. Under 34 CFR §300.125 PMOE must have an effective system for conducting child find. The three monitoring reports OSEP reviewed from PMOE's monitoring, conducted over the period of 1999–2002, indicated a lack of procedures for identification, evaluation and eligibility determination related to child find at the school level. On pages 41 and 51 of the IP, PMOE included strategies and timelines designed to ensure compliance by the next APR. OSEP accepts these strategies. Palau must provide evidence of correction of the noncompliance, including supporting data and analysis, in the next APR.

Early Childhood Transition

Palau stated, on page 36 of its IP, that the early childhood program (birth-five years) was one of the top three priorities for its IP and targeted clarification of the role and responsibilities of the early childhood program as a primary goal. On page 40 of the IP, PMOE indicated that not all 3 year old children with disabilities enter preschool by their third birthday due to parent wishes. On pages 41 through 43 of the IP, PMOE included strategies and timelines designed to improve early childhood transitions. OSEP looks forward to reviewing the results of implementation of these strategies in the next APR.

Parent Involvement

Pages 43 through 47 of the SA indicated that results from parent surveys showed that parents of children with disabilities were aware of the programs and services PMOE provided in special education, especially for young children, and were represented on key committees. On page 16 of the APR, PMOE provided survey results and parent membership on committees that indicated the positive involvement of parents in special education. PMOE developed activities and goals on pages 33 through 35 of the IP to maintain and improve its outreach to parents, especially those speaking Palauan. OSEP looks forward to reviewing the results of PMOE's activities and goals in the next APR.

Free Appropriate Public Education in the Least Restrictive Environment

Disproportionality

PMOE stated on page 18 of the APR indicated that this is not a relevant factor since 97% of all children served by PMOE are classified as "Asian/Pacific Islander."

Graduation and Dropout

As noted on page 20 of the APR, Palau had one high school with 34 students with disabilities enrolled during the 2002-2003 school year. The graduation rate for this school year was 100% with three students with disabilities graduating. The drop-out rate for students with disabilities was steady at 2.9%. This compared to a drop-out rate for general education population of 3.7%. PMOE should continue to include in the FFY 2003 APR strategies that will maintain its performance and OSEPs looks forward reviewing PMOE's progress through its data in this area.

Suspension and Expulsion

On page 22 of the APR, PMOE indicated that there are no cases of the suspension or expulsion of students with disabilities for school years 2000-2001, 2001-2002, and 2002-2003. PMOE should continue to include in the FFY 2003 APR strategies that will maintain its performance and OSEPs looks forward reviewing PMOE's progress in this area.

Performance of Children with Disabilities on State- and District-Wide Assessments

On page 24 of the APR, PMOE stated that it was not in compliance with the requirement at 34 CFR §300.138 regarding availability of an alternate assessment for a child with a disability when the general State-wide assessment was not appropriate. Specifically, the APR indicated that no alternate assessments were administered during the 2001-2002 and 2002-2003 school years, although the alternate assessment was given in previous years. On page 50 of the IP, PMOE included strategies and timelines designed to ensure compliance by the next APR. OSEP accepts these strategies. Palau must provide evidence of correction of the noncompliance, including supporting data and analysis, in the next APR.

Children with Disabilities Educated with Nondisabled Peers to the Maximum Extent Appropriate

On page 25 of the APR, PMOE concluded that the percentage of children with disabilities served in "pull-out support" (resource) settings increased over the past three years, primarily because of the increase in the number of children with disabilities served in special education. On page 52 of the IP, PMOE included strategies and timelines designed to improve performance by the next APR. OSEP looks forward to reviewing the results of PMOE's goals and activities in the next APR.

Early Language/Communication, Pre-Reading, and Social-Emotional Skills of Preschool Children with Disabilities

On page 26 of the APR, PMOE stated that "this is a new cluster objective/probe for Palau to consider." PMOE reported no data or activities. In the FFY 2003 APR, Palau should

either submit documentation of 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 a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

Secondary Transition

The SA and IP included information that indicated noncompliance with the following requirement: a statement of transition service needs that focuses on the student's course of study beginning at age 14 (or younger, if necessary) as required 34 CFR §300.347(b)(1). On pages 101–102 of the SA and page 56 of the IP, PMOE indicates that a file review demonstrated that all youths with disabilities in the high school had a statement of transition services (34 CFR § 300.347(b)) and students with disabilities were invited to IEP meetings when transition was discussed (34 CFR §300.345(a)(2) & (3)). However, the IP also stated on pages 56 and 57 that transition was not addressed for students who are age 14 and not yet in high school and that, even though they are invited, students with disabilities tend not to show up at IEP meetings. No data were provided regarding whether other steps were taken, when students failed to attend, to consider their preferences and interests (34 CFR §300.344(b)(2)). Page 28 of the APR indicated that there was no systematic way to collect data, although it provided some anecdotal evidence of post-secondary successes for students with disabilities since compulsory education through high school took effect in 1997. On page 58-61 of the IP, PMOE included strategies and timelines designed to ensure compliance and improve performance by the next APR. OSEP accepts these strategies. Palau must provide evidence of correction of the noncompliance, including supporting data and analysis, in the next APR.

Conclusion

Within 60 days of the date of this letter, PMOE must submit an amended IP to OSEP, including strategies, proposed evidence of change, targets and timelines designed to ensure timely correction of identified noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward compliance, including current information on the number of schools monitored, the number requiring corrective action, the corrective actions taken to resolve noncompliance identified in schools, and corrective action not yet completed and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Within 60 days of the date of this letter, PMOE must provide OSEP with information to demonstrate that appropriate special education and related services are provided for children with disabilities; or, if Palau determines that shortages in qualified personnel are resulting in lack of needed services for children with disabilities, then it must submit an amended IP including 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 accepts the plan. The plan must focus specifically on ensuring an adequate supply of personnel for those services that are either unavailable in Palau or for which there is a shortage that could result in insufficient services for children with disabilities.

Within 60 days of the date of this letter, PMOE must submit an amended IP to OSEP including strategies, proposed evidence of change, targets and timelines designed to demonstrate that FAPE is being provided to children with disabilities, incarcerated by the Ministry of Justice, within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

In the FFY 2003 APR, Palau must include the following data and information:

- (1) evidence of effective complaint processes consistent with 34 CFR §§300.660-300.662 and a system in place to track whether due process hearings meet timelines consistent with 34 CFR §300.511;
- (2) evidence of a data system that collects accurate and timely data consistent with the 618 reporting requirements;
- (3) revision of the procedural safeguards notice to comply with 34 CFR §300.504;
- (4) implementation of an effective system to identify, locate and evaluate all children with disabilities, in accordance with 34 CFR §300.125;
- (5) documentation that an alternate assessment is available and utilized for children with disabilities unable to participate in all, or part of, the State-wide assessment in accordance with 34 CFR §300.138; and
- (6) documentation that students with disabilities that student with disabilities, beginning at age 14 (or younger, if appropriate) have IEPs that include statements of transition service needs, in accordance with 34 CFR §300.347(b)(1), and that if students do not attend their IEP meetings where transition is discussed, other steps are taken to ensure that the student's preferences and interests are considered, in accordance with 34 CFR §300.344(b)(2).

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and we look forward to collaborating with you as you continue to improve results for children and youth with disabilities and their families.

Sincerely,


Stephanie Smith Lee
Director
Office of Special Education Programs