



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

Honorable Masa-Aki Emesioch
Minister of Education
Ministry of Education
Republic of Palau
Post Office Box 189
Koror, Palau 96940

JUN 1 2009

Dear Minister Emesioch:

Thank you for the timely submission of the Republic of Palau's (ROP's) Federal fiscal year (FFY) 2007 Annual Performance Report (APR) and State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA). We also acknowledge the revisions to ROP's APR and SPP received on April 7, 2009. We appreciate the ROP's efforts in preparing these documents.

The Department has determined that, under IDEA section 616(d), the ROP needs assistance in meeting the requirements of Part B of IDEA. The Department's determination is based on the totality of the ROP's data and information including the ROP's FFY 2007 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2009" for further details.

The specific factor that affected the Office of Special Education Programs' (OSEP's) determination of needs assistance for the ROP was its data for Indicator 15. The ROP reported 88% for Indicator 15. For this reason, we were unable to determine that the ROP met requirements under section 616(d). Though not a basis for our determination this year (because Palau reported correction), we are concerned with the very low level (24%) of compliance reported for Indicator 13. We hope the ROP will be able to demonstrate that it meets requirements in its FFY 2008 APR.

The enclosed table provides OSEP's analysis of the State's FFY 2007 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the ROP to its targets, improvement activities (timelines and resources) and baseline data in the ROP's SPP. The table also identifies, by indicator, the ROP's status in meeting its targets, whether the ROP's data reflect progress or slippage, and whether the ROP corrected noncompliance and provided valid and reliable data.

The ROP's determination for the FFY 2005 and FFY 2006 APRs was also needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 CFR §300.604, if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose special conditions on the State's Part B grant award.

Pursuant to these requirements, the Secretary is advising the ROP of available sources of technical assistance related to Indicator 15 (timely correction of noncompliance). A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the “Technical Assistance Related to Determinations” box on the opening page of the SPP/APR Planning Calendar website at <http://spp-apr-calendar.rfcnetwork.org/techassistance.html>. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator. For the indicator listed above, the ROP must: report with its FFY 2008 APR submission, due February 1, 2010, on the (1) technical assistance sources from which the ROP received assistance, and (2) the actions the ROP took as a result of that technical assistance. The extent to which the ROP takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should the ROP not be determined to meet requirements next year. We encourage the ROP to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

In its October 17, 2008 Memorandum 09-02, “Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA,” OSEP provided Chief State School Officers and Lead Agency Directors with important information regarding: (1) requirements for identifying noncompliance and reporting on the correction of noncompliance in States’ APRs; and (2) how OSEP will, beginning with the FFY 2008 APR, due February 1, 2010, consider the correction of noncompliance in making annual determinations for States pursuant to section 616(d) of the IDEA. Most significantly, beginning with our 2010 determinations:

1. OSEP will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year’s noncompliance if the State’s current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
2. OSEP will credit a State with correction of noncompliance relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year’s APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report, for each compliance indicator, whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year’s APR as well as that identified by the Department more than one year previously.

It is important for each State to review the guidance in the memorandum, and to raise any questions with your OSEP State Contact. The memorandum may be found at: <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/536>.

OSEP is committed to supporting the ROP's efforts to improve results for children and youth with disabilities and looks forward to working with the ROP over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Richard Steffan, your OSEP State Contact, at 202-245-6759.

Sincerely,

A handwritten signature in black ink that reads "Patricia J. Guard". The signature is written in a cursive style with a large initial 'P' and a distinct 'G'.

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education