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

JUN 3 2010

Honorable Claire Poumele
Director of Education
American Samoa Department of Education
PO Box 656
Pago Pago, American Samoa 96799

Dear Director Poumele:

Thank you for the timely submission of American Samoa's Federal fiscal year (FFY) 2008 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA section 616(d), American Samoa needs assistance in implementing the requirements of Part B of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2008 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 2010: Part B" for further details.

The specific factor affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for American Samoa is that the Department has designated American Samoa a high-risk grantee and has imposed Department-wide special conditions regarding the Single Audit Act to ensure fiscal accountability on its grants to American Samoa since FFY 2004. Although American Samoa continues to work on the Department's remaining fiscal concerns, it is anticipated that its FFY 2010 grant awards will be subject to the Department-wide special conditions again. For these reasons, we are unable to determine that American Samoa met requirements under section 616(d).

OSEP notes other areas that reflect a high level of performance, which include that American Samoa reported valid and reliable data for all indicators and 100% compliance for Indicators 11, 12, and 16. We hope that American Samoa will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the American Samoa's FFY 2008 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by American Samoa to its targets, improvement activities (timelines and resources), and baseline data in the American Samoa's SPP. The table also identifies, by indicator: (1) the State's reported FFY 2008 data; (2) whether such data met the State's FFY 2008 targets and reflect progress or slippage from prior year's data; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

American Samoa's determination for the FFY 2005, 2006, and FFY 2007 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 continuing to require American Samoa to access technical assistance, related to American Samoa's Department-wide special conditions and status as a high-risk grantee, through the Department's Risk Management Service (RMS). Pursuant to its High-Risk Corrective Action Plan, American Samoa is required to provide RMS reports on implementation of corrective measures related to its designation as a high-risk grantee. American Samoa must report to OSEP, with its FFY 2009 APR submission, due February 1, 2011, on: (1) the technical assistance it has received from RMS; and (2) the actions the State took as a result of that technical assistance. The extent to which American Samoa takes advantage of available technical assistance may affect the actions OSEP takes under sections 616 and 642 should your State not be determined to meet requirements next year.

As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, American Samoa must notify the public within American Samoa that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's website and distributing the notice to the media and through public agencies.

As you know, pursuant to 34 CFR §300.602(b)(1)(i)(A), the SEA must report annually to the public on the performance of each local educational agency (LEA) located in the jurisdiction on the targets in the SPP. Because your jurisdiction is a unitary entity (i.e., the SEA is the only LEA), you may meet this public reporting requirement by posting your FFY 2008 APR on the SEA's website and making it available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B). If your SPP includes revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on American Samoa's website and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

OSEP is committed to supporting American Samoa's efforts to improve results for children and youth with disabilities and looks forward to working with American Samoa over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Ken Kienas, your OSEP State Contact, at 202-245-7621.

Sincerely,

Alexa Posny, Ph.D.
Acting Director
Office of Special Education Programs

Enclosures

cc: American Samoa Director of Special Education