



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

JUN - 3 2010

Honorable Nerissa Bretania Underwood
Superintendent
Guam Department of Education
PO Box DE
Hagatna, Guam 96932

Dear Superintendent Bretania Underwood:

Thank you for the timely submission of Guam'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), Guam needs assistance in implementing the requirements of Part B of IDEA. The Department's determination is based on the totality of Guam's data and information including Guam's FFY 2008 APR and revised SPP, other Guam-reported data, and Guam's submissions under any Special Conditions on the Guam's FFY 2009 Part B grants, 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 factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Guam were that Guam's FFY 2008 data reflect 87% compliance for Indicator 15 and 92% compliance for Indicator 20. OSEP also considered that the Department continues to impose Department-wide Special Conditions to ensure fiscal accountability on all of its grants to Guam. It is anticipated that Guam's FFY 2010 grant awards will be subject to the Department-wide Special Conditions again. For these reasons, we are unable to determine that Guam met requirements for FFY 2008 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, which include that Guam reported valid and reliable data for all indicators and a high level of compliance for Indicator 11 (95%), Indicator 12 (100%), and Indicator 16 (100%). We hope that Guam will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of Guam's FFY 2008 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by Guam to its targets, improvement activities (timelines and resources), and baseline data in Guam's SPP. The table also identifies, by indicator: (1) Guam's reported FFY 2008 data; (2) whether such data met the Guam's FFY 2008 targets and reflect progress or slippage from prior year's data; (3) if

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applicable, that Guam's data are not valid and reliable; and (4) whether Guam corrected findings of noncompliance.

Guam's determination for the FFY 2007 APR also was 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 Guam of available sources of technical assistance related to Indicators 15 and 20. 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/>. 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 indicators listed above, Guam must report with its FFY 2009 APR submission, due February 1, 2011, on: (1) the technical assistance sources from which Guam received assistance; and (2) the actions Guam took as a result of that technical assistance. The extent to which Guam takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should Guam not be determined to meet requirements next year. We encourage Guam to take advantage of available sources of technical assistance in other areas as well, particularly if it is reporting low compliance data for an indicator.

As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, Guam must notify the public within Guam that the Secretary of Education has taken the above enforcement actions, 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 Guam's website and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

OSEP is committed to supporting Guam's efforts to improve results for children and youth with disabilities and looks forward to working with your State 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, appearing to read "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" written in a larger, more prominent script than the last name "Posny".

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

Enclosures

cc: Guam Director of Special Education