



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

JUN - 3 2010

Honorable LaVerne Terry
Commissioner of Education
Virgin Islands Department of Education
1834 Kongens Gade
St. Thomas, Virgin Islands 00802-6746

Dear Dr. Terry:

Thank you for the timely submission of Virgin Islands' 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), Virgin Islands 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, information obtained through the State's submissions under any Special Conditions on the State'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 the Virgin Islands were that the State continues under Special Conditions attached to the FFY 2009 Part B grant award letter and continues under Department-wide Special Conditions regarding a third-party fiduciary.

OSEP notes that the Virgin Islands IDEA Part B grant award has been subject to Special Conditions since FFY 2005 because of the inability to report publicly and to the Secretary on the participation and performance of children with disabilities in State-wide and district-wide assessments, as required by Part B. Although the Virgin Islands made progress in its reporting efforts, it is anticipated that the FFY 2010 Part B grant award will continue with some of these Special Conditions.

OSEP also notes that the Department has designated Virgin Islands a high-risk grantee and has imposed Department-wide special conditions regarding fiscal accountability requirements. 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 the Virgin Islands met requirements under section 616(d).

OSEP notes other areas that reflect a high level of performance, which include a high level of compliance for Indicator 9 (0%), Indicator 10 (0%), Indicator 11 (97%), Indicator 12 (100%), Indicator 16 (100%), Indicator 17 (100%), and Indicator 20 (97.3%). We hope that the Virgin Islands will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the State's FFY 2008 APR and revised SPP and

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identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources), and baseline data in the State'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.

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

As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A), your State must report annually to the public on the performance of each local educational agency (LEA) located in the State on the targets in the SPP as soon as practicable, but no later than June 2, 2010. In addition, your State must: (1) review LEA performance against targets in the State's SPP; (2) determine if each LEA "meets requirements," of Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA; (3) take appropriate enforcement action; and (4) inform each LEA of its determination. 34 CFR §300.600(a)(2) and (3). For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/656>. Finally, if your State included revisions to baseline, targets or improvement activities in its APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on the State's website and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

OSEP is committed to supporting Virgin Islands' 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 Christine Pilgrim, your OSEP State Contact, at 202-245-7351.

Sincerely,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive style with a large, looped initial "A".

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

Enclosures

cc: State Director of Special Education