



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

Honorable Faoa Fiti Sunia
Acting Director of Education
American Samoa Department of Education
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Main Office - Utulei
Pago Pago, American Samoa 96799

JUN 20 2011

Dear Acting Director Faoa Fiti Sunia:

Thank you for the timely submission of American Samoa's Federal fiscal year (FFY) 2009 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 American Samoa's data and information including American Samoa's FFY 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), other State-reported data, information obtained through verification visits and American Samoa's submissions under any Special Conditions on American Samoa's FFY 2010 Part B grants, and other publicly available information. However, we did not consider whether a State was in compliance with the requirement in section 612(a)(18)(A) to maintain State financial support for special education and related services. This is a key component of a State's eligibility for a grant under Part B of the IDEA. However, because the statute provides a specific remedy when a State is not in compliance with this provision (and the Department is taking action consistent with the statute) and recognizing that this is the first time that a number of States have failed to meet this requirement, the Department decided not to include compliance with this provision in the determinations process this year. The Department is actively considering including a State's compliance with this requirement in the 2012 determinations. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2011: Part B" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for American Samoa were that: (1) 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 2011 grant awards will be subject to the Department-wide special conditions again; (2) American Samoa's FFY 2009 data reflect 93% compliance for Indicator 11 and American Samoa did not demonstrate that it corrected previously identified findings of noncompliance; and (3) American Samoa's FFY 2009 data reflect 92.16% compliance for Indicator 20. For these reasons, we were unable to determine that American Samoa met requirements for FFY 2009 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 12, 15, 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 American Samoa's FFY 2009 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 American Samoa's SPP. The table also identifies, by indicator: (1) American Samoa's reported FFY 2009 data; (2) whether such data met American Samoa's FFY 2009 targets and reflect progress or slippage from the prior year's data; (3) if applicable, that American Samoa's data are not valid and reliable; and (4) whether American Samoa corrected findings of noncompliance.

American Samoa's determinations for FFYs 2005, 2006, 2007 and 2008 were 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 American Samoa of available sources of technical assistance related to Indicator 11: Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and Indicator 20: State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. 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 Right IDEA" Web site at: <http://therightidea.tadnet.org/technicalassistance>. 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, American Samoa must report with its FFY 2010 APR submission, due February 1, 2012, on: (1) the technical assistance sources from which American Samoa received assistance; and (2) the actions American Samoa took as a result of that technical assistance. The extent to which American Samoa takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should American Samoa not be determined to meet requirements next year. We encourage American Samoa to take advantage of available sources of technical assistance in other areas as well, particularly if American Samoa is reporting low compliance data for an indicator.

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 2010 APR submission, due February 1, 2012, 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

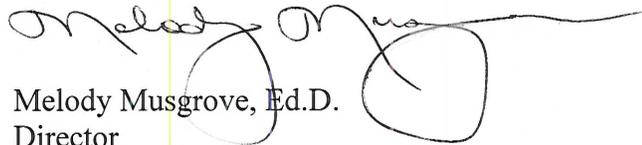
advantage of available technical assistance may affect the actions OSEP takes under sections 616 and 642 should American Samoa not be determined to meet requirements next year.

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 Web site 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 2009 APR on American Samoa's educational agency's Web site and making it available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B). For further information regarding these requirements, see "The Right IDEA" Web site at: <http://therightidea.tadnet.org/determinations>. Finally, please ensure that your updated SPP is posted on American Samoa's educational agency's Web site 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 Dr. Richard Steffan, your OSEP State Contact, at 202-245-6759.

Sincerely,



Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education