



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

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

**JUN 20 2011**

Dear Superintendent Bretania Underwood:

Thank you for the timely submission of Guam'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), 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 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), other State-reported data, information obtained through Guam's submissions under any Special Conditions on Guam'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 factor affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Guam was that the Department has designated Guam as a high-risk grantee and has imposed Department-wide special conditions regarding the Single Audit Act to resolve significant fiscal problems and ensure fiscal accountability for its grants to Guam. Although Guam continues to work on the Department's remaining fiscal concerns, it is anticipated that its FFY 2011 grants, including its IDEA Part B grant, will be subject to the Department-wide special conditions again. For this reason, we were unable to determine that Guam met requirements for FFY 2009 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, including that Guam reported valid and reliable data for all indicators and a high level of compliance for Indicator 11 (100%), Indicator 12 (100%), Indicator 15 (99.7%), Indicator 16 (100%), Indicator 17 (100%), and Indicator 20 (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 2009 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 2009 data; (2) whether such data met Guam's FFY 2009 targets and reflect progress or slippage from the prior year's data; (3) if applicable, that Guam's data are not valid and reliable; and (4) whether Guam corrected findings of noncompliance.

Guam's determinations for FFYs 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 continuing to require the Guam Department of Education (GDOE) to access technical assistance related to Guam's Department-wide special conditions and status as a high-risk grantee through the Department's Risk Management Service (RMS). RMS has required that GDOE work with the Department and its third-party fiduciary agent on revising its Comprehensive Corrective Action Plan (CCAP) to ensure that GDOE will be able to achieve measurable progress in its financial management and administration of Department funds. Additionally, GDOE must cooperate in revising the process for reporting progress made under the CCAP so that the Department may receive a meaningful and accurate assessment of GDOE's progress on a regular basis. Upon the Department's approval of a revised CCAP, GDOE will be required to provide quarterly reports to the Department on its progress in implementing measures required under the CCAP.

GDOE must report, with its FFY 2010 APR submission, due February 1, 2012, on: (1) the technical assistance it has received from RMS; and (2) the actions it took as a result of that technical assistance. The extent to which Guam takes advantage of available technical assistance may affect the actions OSEP takes under sections 616 and 642 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 Guam is reporting low compliance data for an indicator.

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.

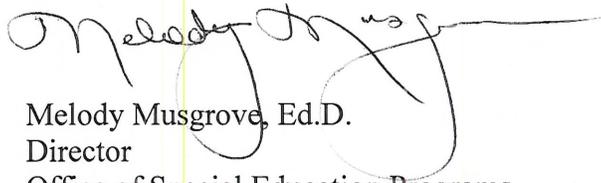
As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, the State must notify the public within the State that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's Web site and distributing the notice to the media 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 Guam'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 Guam'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 Guam's efforts to improve results for children and youth with disabilities and looks forward to working with Guam 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,

A handwritten signature in black ink, appearing to read "Melody Musgrove", with a long horizontal flourish extending to the right.

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

Enclosures

cc: State Director of Special Education