



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

Honorable Jon Fernandez
Superintendent
Guam Department of Education
Post Office Box DE
Hagatna, Guam 96932

JUN 27 2012

Dear Superintendent Fernandez:

Thank you for the timely submission of Guam's Federal fiscal year (FFY) 2010 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)(2)(A)(ii), 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 2010 APR and revised SPP, other State-reported data, Guam's submissions under any Special Conditions on its FFY 2011 Part B grant, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2012: 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: (1) Guam's FFY 2010 data for Indicator 15, which measures the timely correction of findings of noncompliance, reflect 62% compliance; and (2) the Department continues to designate Guam as a high-risk grantee and imposed Department-wide special conditions on June 21, 2012 due to Guam's continuing failure to successfully address significant problems in fiscal accountability for Department grand funds. For these reasons, we are unable to determine that Guam met requirements for FFY 2010 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 Indicators 11 (100%), 12 (100%), 13 (99.83%), 16 (100%), and 20 (97.44%). We hope that Guam will be able to demonstrate that it meets requirements in its FFY 2011 APR.

The enclosed table provides OSEP's analysis of Guam's FFY 2010 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 its SPP. The table also identifies, by indicator: (1) Guam's reported FFY 2010 data; (2) whether such data met Guam's FFY 2010 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 2007, 2008, and 2009 were also needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 CFR §300.604(a), 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

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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). Under the 2012 Special Conditions, Guam must maintain its contract with Alvarez and Marsal, LLC, its third party fiduciary agent. Guam must also continue to implement its Comprehensive Corrective Action Plan (CCAP), to revise the process for reporting progress under the CCAP, and to report to the Department on a quarterly basis on its progress in implementing measures under the CCAP. These quarterly reports are intended to allow GDOE to demonstrate measurable progress in developing financial management systems and in administering Department funds.

Pursuant to these requirements, the Secretary is advising Guam of available sources of technical assistance related to Indicator 15: General Supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification. 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 indicator listed above, Guam must report with its FFY 2011 APR submission, due February 1, 2013, on: (1) the technical assistance sources from which it 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 this indicator 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.

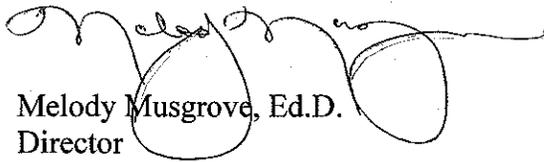
As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, Guam must notify the public within Guam that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's Web site and distributing the notice to the media and through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

As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A), each 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 1, 2012. 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 2010 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 the Guam 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 large, stylized flourish extending to the right.

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

Enclosures

cc: Guam Director of Special Education