



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

June 23, 2014

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

Dear Superintendent Fernandez:

I am writing to advise you of the U. S. Department of Education's (Department) 2014 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Guam needs assistance in implementing the requirements of Part B of the IDEA. This determination is based on the totality of Guam's data and information, including the Federal fiscal year (FFY) 2012 Annual Performance Plan (APR) and revised State Performance Plan (SPP), other State-reported data, and other publicly available information.

As you know, the Office of Special Education Programs (OSEP) is implementing a revised accountability framework designed to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Section 616(a)(2) of the IDEA requires that the primary focus of IDEA monitoring be on improving educational results and functional outcomes for children with disabilities, and ensuring that States meet the IDEA program requirements.

OSEP's previous accountability system placed a heavy emphasis on compliance and we have seen an improvement in States' compliance over the past seven years of IDEA determinations. OSEP's new accountability framework, called Results Driven Accountability (RDA), brings into focus the educational results and functional outcomes for children with disabilities while balancing those results with the compliance requirements of IDEA. Protecting the rights of children with disabilities and their families is a key responsibility of State educational agencies (SEAs) and local educational agencies (LEAs), but it is not sufficient if children are not attaining the knowledge and skills necessary to achieve the goals of IDEA as reflected in Congressional findings in section 601(c)(1) of the IDEA Improvement Act of 2004: equality of opportunity, full participation, independent living, and economic self-sufficiency.

From the start, OSEP committed to several key principles to guide the development of a new accountability framework, including transparency, stakeholder involvement, and burden reduction. In keeping with these principles, over the past two years we have solicited input from stakeholders on multiple occasions and published a new SPP/APR for FFYs 2013 through 2018. The revised SPP/APR significantly reduces data collection and reporting burden by States, and shifts the focus to improving educational results and functional outcomes for children with disabilities by requiring each State to develop and implement a State Systemic Improvement Plan (SSIP).

The Department is committed to supporting States in the development and implementation of the SSIP which is designed to improve results for all children, including children with disabilities, and is investing significant resources toward that commitment. OSEP is implementing a system of differentiated monitoring and support, using data on performance (i.e., results data) and other information about a State to determine the appropriate intensity, focus, and nature of the oversight and support that each State will receive as part of RDA. OSEP's technical assistance network will be a key component of differentiated support to States and, through States, to local programs. We believe that only through a coordinated effort across the education system will we positively affect the school and life trajectories of children with disabilities.

In making determinations in 2013, the Department used a compliance matrix that included compliance data on multiple factors, thereby allowing us to consider the totality of a State's compliance data. In the 2013 determination letters, OSEP informed States that it would use results data when making determinations in 2014. OSEP published a Request for Information to solicit comments regarding how results data could be used in making IDEA determinations in 2014 and beyond, and has carefully reviewed these comments in deciding how to use results data in making determinations in 2014.

In making States' 2014 determinations under section 616(d), OSEP has used results data on the participation of children with disabilities on regular Statewide assessments; the proficiency gap between children with disabilities and all children on regular Statewide assessments; and the performance of children with disabilities on the National Assessment of Educational Progress (NAEP). In making Guam's 2014 determination, OSEP did not consider results data because Guam is not required to conduct Statewide assessments and does not participate in NAEP. Therefore, Guam's 2014 determination was based only on compliance data.

As noted above, the State's 2014 determination is Needs Assistance. The determination of an entity for whom the determination is based only on compliance is Needs Assistance if its compliance matrix percentage was at least 75%, but less than 90%, or was below 75%, but the State does not also meet one of the following criteria for Needs Intervention: (1) compliance is below 50% for one or more of the following Compliance Indicators (Indicators 4B, 9, 10, 11, 12, 13, or 15, or for timely State complaint decisions or timely due process hearing decisions; (2) the State provided no data or did not provide valid and reliable data for Compliance Indicators 4B, 9, 10, 11, 12, 13, or 15; or (3) the Department imposed Special Conditions on the State's last three (FFYs 2011, 2012, and 2013) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the Department's 2014 determination.

Enclosed with this determination letter are the following: (1) Guam's "2014 Part B Compliance Matrix;" (2) a document entitled How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act Part B in 2014: Entities with Determinations Based on Compliance," which provides a detailed description of how OSEP evaluated these entities' data using the Compliance Matrix; (3) Guam's FFY 2012 Response Table, which provides OSEP's analysis of Guam's FFY 2012 APR and revised SPP; and (4) a Data Display, which presents certain Guam-reported data in a transparent, user-friendly manner. The Data Display will be posted on OSEP's Web site and will be helpful for the public in getting a broader picture of Guam performance in key areas.

Guam's determination for 2013 was also needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 C.F.R. § 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 and require the State to work with appropriate entities; (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 IDEA Part B grant award.

Pursuant to these requirements, the Secretary is advising Guam of available sources of technical assistance, including OSEP-funded technical assistance centers and resources at the following Web site: <https://osep.grads360.org/#program/highlighted-resources> (link goes live July 18, 2014), and requiring Guam to work with appropriate entities. In addition, Guam should consider accessing technical assistance from other Department-funded centers such as the Comprehensive Centers with resources at the following link: <http://www2.ed.gov/programs/newccp/index.html>. The Secretary directs Guam to determine the results elements and/or compliance indicators, and improvement strategies, on which it will focus its use of available technical assistance, in order to improve its performance. We strongly encourage Guam to access technical assistance related to those results elements and compliance indicators for which the State received a score of zero or less. Guam must report with its FFY 2013 SPP/APR submission, due February 2, 2015, on: (1) the technical assistance sources from which Guam received assistance; and (2) the actions Guam took as a result of that technical assistance.

As a reminder, Guam must report annually to the public on the performance of each LEA located in Guam on the targets in the SPP as soon as practicable, but no later than 120 days after Guam's submission of its FFY 2012 APR. In addition, Guam must: (1) review LEA performance against targets in Guam's SPP; (2) determine if each LEA "meets the 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. Finally, please ensure that your APR, updated SPP, and report on the performance of each LEA located in Guam on the targets in the SPP are posted on the SEA's Web site and made available to the public.

OSEP appreciates Guam's efforts to improve results for children and youth with disabilities and looks forward to working with Guam over the next year as we continue our important work of improving the lives of children with disabilities and their families. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Jenny Denny, your OSEP State Contact, at 202-245-6331.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with the first name "Melody" and last name "Musgrove" clearly distinguishable.

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

Enclosures

cc: Guam Director of Special Education