



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

June 28, 2016

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) 2016 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) 2014 State Performance Plan/Annual Performance Report (SPP/APR), other Guam-reported data, and other publicly available information.

Guam's 2016 determination is based on the data reflected in Guam's "2016 Part B Compliance Matrix" (Compliance Matrix). The Compliance Matrix is further explained in a document, entitled "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act Part B in 2016: Entities with Determinations Based on Compliance" (HTDMD Compliance Only).

Although OSEP is continuing to use both results data and compliance data in making determinations in 2016 for other States, the Department did not have sufficient results data to use when making 2016 determinations for the following entities: American Samoa, the Bureau of Indian Education, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands. In making Part B determinations in 2016 for other States, OSEP used results data related to the participation of children with disabilities (CWD) on regular Statewide assessments, the participation and performance of CWD on the National Assessment of Educational Progress (NAEP), and exiting data on CWD who dropped out and CWD who graduated with a regular high school diploma, as reported by States under section 618 of the *IDEA*. Although your entity does report section 618 exiting data, which is included in the Data Display described below, it is not required to conduct Statewide assessments and does not participate in NAEP. Therefore, the Department is using the criteria set forth in the HTDMD Compliance Only, which are similar to the criteria the Department used to make determinations for these entities in 2013, 2014, and 2015.

You may access the results of OSEP's review of Guam's SPP/APR and other relevant data by accessing the SPP/APR module using your entity-specific log-on information at osep.grads360.org. When you access Guam's SPP/APR on the site, you will find, in Indicators 1

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through 16, the OSEP Response to the indicator and any actions that Guam is required to take. The actions that Guam is required to take are in two places:

- (1) any actions related to the correction of findings of noncompliance are in the “OSEP Response” section of the indicator; and
- (2) any other actions that Guam is required to take are in the “Required Actions” section of the indicator.

It is important for you to review the Introduction to the SPP/APR, which may also include an OSEP response and/or Required Actions.

You will also find all of the following important documents saved as attachments to the Progress Page:

- (1) Guam’s Compliance Matrix;
- (2) the HTDMD Compliance Only document;
- (3) a spreadsheet entitled “2016 Data Rubric Part B,” which shows how OSEP calculated Guam’s “Timely and Accurate State-Reported Data” score in the Compliance Matrix;
- (4) a document entitled “Dispute Resolution 2014-15,” which includes the *IDEA* section 618 data that OSEP used to calculate Guam’s “Timely State Complaint Decisions” and “Timely Due Process Hearing Decisions” scores in the Compliance Matrix; and
- (5) a Data Display, which presents certain entity-reported data in a transparent, user-friendly manner and is helpful for the public in getting a broader picture of Guam’s performance in key areas.

As noted above, Guam’s 2016 determination is Needs Assistance. The 2016 determination for an entity whose determination is based on the Compliance Matrix is Needs Assistance if the Compliance Matrix percentage was at least 75%, but less than 90%, or was below 75% but the entity does not meet the criteria for Needs Intervention as set forth in the HTDMD Compliance Only document. An entity would also be Needs Assistance if its Compliance Matrix percentage was at least 90%, but the Department has imposed Special Conditions on the entity’s last three (FFYs 2013, 2014, and 2015) *IDEA* Part B grant awards, and those Special Conditions are in effect at the time of the Department’s 2016 determination.

Guam’s determination for 2015 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 or entity is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions:

- (1) advise the State or entity of available sources of technical assistance that may help the State or entity address the areas in which the State or entity needs assistance and require the State or entity to work with appropriate entities;
- (2) direct the use of State-level funds on the area or areas in which the State or entity needs assistance; or
- (3) identify the State or entity as a high-risk grantee and impose Special Conditions on the State’s or entity’s *IDEA* 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 the Guam Department of Education Department-wide special conditions and status as a high-risk grantee through the Department's Risk Management Service. Under the 2016 Special Conditions, Guam must continue to implement its Comprehensive Corrective Action Plan (CCAP) and 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.

States were required to submit Phase II of the State Systemic Improvement Plan (SSIP) by April 1, 2016. OSEP appreciates Guam's ongoing work on its SSIP and its efforts to improve results for students with disabilities. We have carefully reviewed your submission and will provide feedback in the upcoming weeks. Additionally, OSEP will continue to work with your entity as it develops Phase III of the SSIP, due April 3, 2017.

Further, Guam must make its SPP/APR available to the public by posting it on its Web site. Within the next several days, OSEP will be finalizing a State Profile for your entity that:

- (1) will be accessible to the public;
- (2) includes links to a PDF of the entity's SPP/APR, including all of the entity's and OSEP's attachments; and
- (3) Guam may use to make its SPP/APR accessible to the public.

We will provide you with the link to that profile when it is live.

OSEP appreciates Guam's efforts to improve results for children and youth with disabilities and looks forward to working with your entity 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 Genée Norbert, your OSEP State lead, at 202-245-7326.

Sincerely,

/s/ Ruth E. Ryder

Ruth E. Ryder
Acting Director
Office of Special Education Programs

cc: Entity Director of Special Education