



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

JUN - 1 2009

Honorable Tuiasina Salamo Laumoli
Director
American Samoa Department of Health
Government of American Samoa
Pago Pago, American Samoa 96799

Dear Director Tuiasina Salamo Laumoli:

Thank you for the timely submission of American Samoa's Federal fiscal year (FFY) 2007 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA). We also acknowledge the revisions to American Samoa's APR received on April 7, 2009. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA sections 616(d) and 642, American Samoa needs assistance in meeting the requirements of Part C of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2007 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Sections 616(d) and 642 of the IDEA in 2009" for further details.

Specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for American Samoa include that American Samoa's: (1) FFY 2007 data reflect 85% compliance with the individualized family service plan transition content requirements in Indicator 8A and American Samoa did not report correction; (2) FFY 2007 data reflect 76% compliance with the timely correction requirements in Indicator 9; and (3) FFYs 2007 and 2008 Part C grants are subject to Special Conditions as American Samoa was designated as a "high risk" grantee for these grant periods. For these reasons, we were unable to determine that American Samoa met requirements for FFY 2007 under IDEA sections 616(d) and 642.

OSEP notes other areas that reflect a high level of performance, which included that American Samoa reported valid and reliable data for all indicators, 100% compliance for Indicators 8B and 8C, a high level of compliance for Indicators 7 (96% for 45-day timeline) and 14 (98.6% for timely and accurate data reporting), and correction of FFY 2006 findings for Indicator 1 (timely service provision). 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 the State's FFY 2007 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources) and baseline data in the State's SPP. The table also identifies, by indicator, the State's status in meeting its targets, whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data.

The State's determination for the FFY 2005 and FFY 2006 APRs was also needs assistance. In accordance with section 616(e)(1) of the IDEA, 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 C grant award.

Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance related to Indicator 8A (individualized family service plan transition content requirements) and Indicator 9 (timely correction of noncompliance). 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 SPP/APR Planning Calendar website at <http://spp-apr-calendar.rfcnetwork.org/techassistance.html>. 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(s) listed above, your State must: (1) report with its FFY 2008 APR submission, due February 1, 2010, on the technical assistance sources from which the State received assistance, and the actions the State took as a result of that technical assistance; and (2) report to OSEP by October 1, 2009 how the technical assistance selected by the State is addressing the factors contributing to the ongoing noncompliance or lack of valid and reliable data.

In addition, 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 semiannual reports on implementation of corrective measures related to its designation as a high-risk grantee. Additionally, American Samoa is required to provide RMS with quarterly reports on implementation of internal controls and corrective actions consistent with its Payroll Attestation Corrective Action Plan (PCAP). American Samoa must report to OSEP, with its FFY 2008 APR submission, due February 1, 2010, 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 for these indicators may affect the actions OSEP takes under sections 616 and 642 should your State 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 the State is reporting low compliance data for an indicator.

As required by sections 616(e)(7) and 642, the State must notify the public that the Secretary of Education has taken the above enforcement action. This notification must be sufficient to notify the public within the State and may include such mechanisms as posting on the agency's website, distribution through the media and distribution through public agencies.

In its October 17, 2008 Memorandum 09-02, "Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA," OSEP provided Chief State School Officers and Lead Agency Directors with important information regarding: (1) requirements for identifying noncompliance and reporting on the correction of noncompliance in States' APRs; and (2) how OSEP will, beginning with the FFY 2008 APR.

due February 1, 2010, consider the correction of noncompliance in making annual determinations for States pursuant to section 616(d) of the IDEA. Most significantly, beginning with our 2010 determinations:

1. OSEP will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year's noncompliance if the State's current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
2. OSEP will credit a State with correction of noncompliance relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year's APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report, for each compliance indicator, whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year's APR as well as that identified by the Department more than one year previously.

It is important for each State to review the guidance in the memorandum, and to raise any questions with your OSEP State Contact. The memorandum may be found at: <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/536>.

OSEP is committed to supporting American Samoa's efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Brenda Wilkins, your OSEP State Contact, at 202 – 245-6920.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator