



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

JUN - 1 2009

Honorable Nerissa Bretania-Shafer
Superintendent of Education
Guam Public School System
Post Office Box DE
Hagatna, Guam 96932

Dear Superintendent Bretania-Shafer:

Thank you for the timely submission of Guam'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 Guam'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, Guam 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, Department-wide special conditions and Guam's status as a high-risk grantee, 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.

The specific factor affecting OSEP's determination of needs assistance for Guam is that since September 2003, the Department designated Guam a "high-risk" grantee and imposed Special Conditions on all of its grants to Guam. The Special Conditions require Guam to ensure fiscal accountability for, and financial management of, all Department grants to Guam. For this reason, we were unable to determine that Guam 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 Guam reported valid and reliable data for all indicators, high levels of compliance for Indicators 1 (98.64% for timely service provision), 7 (96.33% for 45-day timeline), 8A (100% for individualized family service plan transition content), 8B (100% for local education agency notification), 9 (100% for timely correction), and 14 (100% for timely and accurate data reporting), and correction of FFY 2006 findings for Indicators 1 and 7. 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 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 three 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 continuing to require the Guam Public School System (GPSS) 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 developed a Comprehensive Corrective Action Plan (CCAP) in conjunction with the GPSS to set benchmarks and measure progress in addressing Guam's high-risk status. A biannual reporting mechanism is used by the RMS and the Department to evaluate Guam's progress related to CCAP benchmarks.

GPSS must report, 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 the State takes advantage of available technical assistance may affect the actions OSEP takes under sections 616 and 642 should your State 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 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.

As you know, your State must report annually to the public on the performance of the early intervention services program (EIS program) located in the State on the targets in the SPP, pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642. In addition, your State must review EIS program performance against targets in the State's SPP, determine if each EIS program 'meets requirements,' 'needs assistance,' 'needs intervention,' or 'needs substantial intervention' in implementing Part C of the IDEA, and inform each EIS program of its determination. For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/656>. Finally, as you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

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.rtfcnetwork.org/explorer/view/id/536>.

OSEP is committed to supporting Guam'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 Charles Kniseley, your OSEP State Contact, at 202-245-7322.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator