



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

Honorable Nerissa Bretania Underwood
Superintendent of Education
Guam Department of Education
Post Office Box DE
Hagatna, Guam 96932

JUN 20 2011

Dear Superintendent Bretania Underwood:

Thank you for the timely submission of Guam's Federal fiscal year (FFY) 2009 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA sections 616(d)(2)(A)(ii) and 642, Guam needs assistance in implementing the requirements of Part C of IDEA. The Department's determination is based on the totality of the State's data and information including Guam's FFY 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), 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 2011: Part C" for further details.

The specific factor affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Guam was that the Department continues to designate Guam as a "high risk" grantee and has imposed Department-wide special conditions regarding the Single Audit Act to resolve significant fiscal problems and ensure fiscal accountability for its grants to Guam. Although Guam continues to work on the Department's remaining fiscal concerns, it is anticipated that its FFY 2011 grants, including its IDEA Part C grant, will be subject to the Department-wide special conditions again. For this reason, we were unable to determine that Guam met requirements for FFY 2009 under IDEA sections 616(d) and 642.

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 1 (97%), 7 (99%), 8A (100%), 8B (100%), 8C (100%), 9 (100%) and 14 (100%). We hope that Guam will be able to demonstrate that it meets requirements with its FFY 2010 APR.

The enclosed table provides OSEP's analysis of the State's FFY 2009 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 Guam's SPP. The table also identifies, by indicator: (1) Guam's reported FFY 2009 data; (2) whether such data met Guam's FFY 2009 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 2005, 2006, 2007 and 2008 were also needs assistance. In accordance with sections 616(e)(1) and 642 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 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). RMS has required that GDOE work with the Department and its third-party fiduciary agent on revising its Comprehensive Corrective Action Plan (CCAP) to ensure that GDOE will be able to achieve measurable progress in its financial management and administration of Department funds. Additionally, GDOE must cooperate in revising the process for reporting progress made under the CCAP so that the Department may receive a meaningful and accurate assessment of GDOE's progress on a regular basis. Upon the Department's approval of a revised CCAP, GDOE will be required to provide quarterly reports to the Department on its progress in implementing measures required under the CCAP.

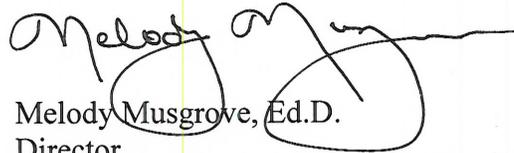
GDOE must report, with its FFY 2010 APR submission, due February 1, 2012, on: (1) the technical assistance it has received from RMS; and (2) the actions it took as a result of that technical assistance. The extent to which Guam takes advantage of available technical assistance may affect the actions OSEP takes under sections 616 and 642 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 Guam is reporting low compliance data for an indicator.

As required by IDEA 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 Web site, distribution through the media and distribution through public agencies.

As you know, pursuant to IDEA sections 616(b)(2)(C)(ii)(1) and 642, Guam must report annually to the public on the performance of each early intervention services program (EIS program) located in the jurisdiction on the targets in the SPP. Because your jurisdiction is a unitary entity (i.e., the State lead agency is the only EIS program), you may meet this public reporting requirement by posting your FFY 2008 APR on Guam's website and making it available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(1) and 642. If your SPP includes revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on Guam's web-site and made available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(1) and 642.

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,

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: Part C Coordinator