



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

Honorable Fern P. Clarke
Acting Commissioner
Virgin Islands Department of Health
Sugar Estate #48
St. Thomas, Virgin Islands 00802-6746

JUN 20 2011

Dear Acting Commissioner Clarke:

Thank you for the timely submission of Virgin Islands' Federal fiscal year (FFY) 2009 Annual Performance Report (APR) and revised Virgin Islands' 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, Virgin Islands needs assistance in implementing the requirements of Part C of IDEA. The Department's determination is based on the totality of the Virgin Islands' data and information including the Virgin Islands' FFY 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), other Territory-reported data, the Virgin Islands' submissions under the Special Conditions on the Virgin Islands' FFY 2010 IDEA grant, 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 factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for the Virgin Islands were that: (1) In reporting on its FFY 2009 data for Indicator 9, which measures the timely correction of findings of noncompliance, the Virgin Islands did not report verifying correction of those findings consistent with OSEP Memorandum 09-02 (dated October 2008); (2) the Virgin Islands' FFY 2009 data for Indicator 8C, which measures the timely transition conference requirement, reflect 90% compliance; and (3) the Department and OSEP continue to designate the Virgin Islands as a "high risk" grantee and impose special conditions on all of its grants to the Virgin Island to ensure fiscal accountability of Department funds, including IDEA Part C funds. For these reasons, we were unable to determine that the Virgin Islands 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 the Virgin Islands reported valid and reliable data for all indicators and a high level of compliance for Indicators 1 (100%), 7 (99.6%), 8B (100%), 8C (95%), and 14 (100%). We hope that the Virgin Islands will be able to demonstrate that it meets requirements with its FFY 2010 APR.

The enclosed table provides OSEP's analysis of the Virgin Islands' FFY 2009 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the Virgin Islands to its targets, improvement activities (timelines and resources) and baseline data in the Virgin Islands' SPP. The table also identifies, by indicator: (1) the Virgin Islands' reported FFY 2009 data; (2) whether such data met the Virgin Islands' FFY 2009 targets and reflect progress or slippage from the prior year's data; (3) if applicable, that the Virgin Islands' data are not valid and reliable; and (4) whether the Virgin Islands corrected findings of noncompliance.

The Virgin Islands' 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 the Virgin Islands is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the Virgin Islands of available sources of technical assistance that may help the Virgin Islands address the areas in which the Virgin Islands needs assistance; (2) direct the use of Virgin Islands' level funds on the area or areas in which the Virgin Islands needs assistance; or (3) identify the Virgin Islands as a high-risk grantee and impose Special Conditions on the Virgin Islands' Part C grant award.

Pursuant to these requirements, the Secretary is advising the Virgin Islands of available sources of technical assistance related to Indicator 9, which measures the timely correction of findings of noncompliance, Indicator 8C, which measures the timely transition conference requirement, and the Department and OSEP continue to designate the Virgin Islands as a "high risk" grantee to ensure fiscal accountability. 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 Right IDEA" Web site at:

<http://therightidea.tadnet.org/technicalassistance>. 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 indicators listed above, the Virgin Islands must report with its FFY 2010 APR submission, due February 1, 2012, on: (1) the technical assistance sources from which the Virgin Islands received assistance; and (2) the actions the Virgin Islands took as a result of that technical assistance. The extent to which the Virgin Islands takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under sections 616 and 642 should the Virgin Islands not be determined to meet requirements next year. We encourage the Virgin Islands to take advantage of available sources of technical assistance in other areas as well, particularly if the Virgin Islands is reporting low compliance data for an indicator.

As required by IDEA sections 616(e)(7) and 642, the Virgin Islands 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 Virgin Islands 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, the Virgin Islands lead agency must report annually to the public on the performance of each early intervention services program (EIS program) located in the Territory on the targets in the SPP. Because your Territory is a unitary entity (i.e., the Virgin Islands lead agency is the only EIS program), you may meet this public reporting requirement by posting your FFY 2008 APR on the Virgin Islands' website and making it available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(1) and 642. For further information regarding these requirements, see "The Right IDEA" Web site at: <http://therightidea.tadnet.org/determinations>. Finally, if the Virgin Islands included 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 the Virgin Islands' website and made available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(1) and 642.

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OSEP is committed to supporting the Virgin Islands' efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with the Virgin Islands over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Sheryl Parkhurst, your OSEP State Contact, at 202-245-7472.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melody Musgrove', with a long horizontal flourish extending to the right.

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

Enclosures

cc: Part C Coordinator