



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

JUN 27 2012

The Honorable Jon Fernandez
Superintendent of Education
Guam Department of Education
P.O. Box DE
Hagatna, Guam 96932

Dear Superintendent Fernandez:

Thank you for the timely submission of Guam's Federal fiscal year (FFY) 2010 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 the State's FFY 2010 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 2012: 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 imposed Department-wide special conditions on June 21, 2012 due to Guam's continuing failure to successfully address significant problems in fiscal accountability for Department grand funds. For this reason, we were unable to determine that Guam met requirements for FFY 2010 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 7 (98%), 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 2011 APR.

The enclosed table provides OSEP's analysis of the State's FFY 2010 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: (1) the State's reported FFY 2010 data; (2) whether such data met the State's FFY 2010 targets and reflect progress or slippage from the prior year's data; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

The State's determinations for FFYs 2005, 2006, 2007, 2008, and 2009 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

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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.

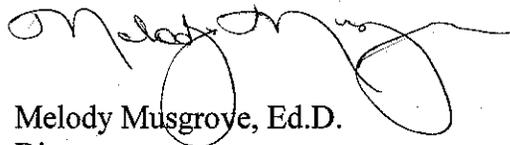
Pursuant to these requirements, the Secretary is continuing to require the Guam Department of Education (GDOE) to access technical assistance related to Guam's Department-wide special conditions and status as a high-risk grantee through the Department's Risk Management Service (RMS). Under the 2012 Special Conditions, Guam must maintain its contract with Alvarez and Marsal, LLC, its third party fiduciary agent. Guam must also continue to implement its Comprehensive Corrective Action Plan (CCAP), to revise the process for reporting progress under the CCAP, and to 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.

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)(I) and 642, Guam must report annually to the public on the performance of each early intervention services program (EIS program) located in the State on the targets in the SPP. Pursuant to 34 CFR §303.702(b)(1)(A) in the final Part C regulations published on September 28, 2011, beginning with its reporting on the FFY 2011 performance of EIS programs in 2013, the State must report to the public by June 1. 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 2010 APR on Guam's Web site and making it available to the public, consistent with IDEA sections 616(d)(2)(C)(ii)(I) and 642. For further information regarding these requirements, see "The Right IDEA" website at: <http://therightidea.tadnet.org/determinations>. OSEP encourages Guam to complete its reporting on the FFY 2010 performance of EIS programs as soon as practicable, if it has not already done so. Finally, please ensure that your updated SPP is posted on the State lead agency's Web site and made available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(I) 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,



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

Enclosures

cc: Part C Coordinator