



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

JUN 27 2012

Honorable Darice Plaskett, RN, MSA, FACHE
Acting Commissioner
Virgin Islands Department of Health
1303 Hospital Ground Suite 10
Charlotte Amalie
St. Thomas, Virgin Islands 00802-6746

Dear Acting Commissioner Plaskett:

Thank you for the timely submission of the Virgin Islands' 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, 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 2010 APR and revised SPP, other State-level 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 the Virgin Islands was that the Department continues to designate the Virgin Islands as a "high risk" grantee and imposed Department-wide special conditions on June 21, 2012 due to the Virgin Islands' continuing failure to successfully address significant problems in fiscal accountability for Department grant funds, including IDEA Part C funds. In addition, OSEP has designated VIDH as a high risk grantee under 34 CFR §80.12 due to the inability of the government of the Virgin Islands to timely pay providers of early intervention services to ensure the timely provision of services to infants and toddlers with disabilities and their families. For these reasons, we were unable to determine that the Virgin Islands 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 the Virgin Islands reported valid and reliable data for all indicators and a high level of compliance for Indicators 8A (100%), 8B (100%), 9 (100%), and 14 (96.3%). We hope that the Virgin Islands will be able to demonstrate that it meets requirements with its FFY 2011 APR.

The enclosed table provides OSEP's analysis of the Virgin Islands' FFY 2010 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the Virgin Island 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 2010 data; (2) whether such data met the Virgin Islands' FFY 2010 targets and reflect

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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, 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 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 requiring Virgin Islands to access technical assistance related to Virgin Islands' Department-wide FFY 2012 special conditions and status as a high-risk grantee for FFY 2012 through the Department's Risk Management Service (RMS). Virgin Islands must report with the FFY 2011 APR submission, due February 1, 2013, on: (1) the technical assistance it received; 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 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.

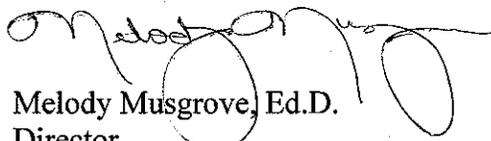
As required by IDEA sections 616(e)(7) and 642, the Virgin Islands must notify the public that the Secretary of Education has taken the above enforcement action. This notification must be sufficient to notify the public within the Virgin Islands and may include such mechanisms as posting on the agency's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

As you know, pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642, the Virgin Islands must report annually to the public on the performance of each early intervention services program (EIS program) located in the Virgin Islands 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 Virgin Island must report to the public by June 1. OSEP encourages the Virgin Islands to complete its reporting on the FFY 2010 performance of EIS programs as soon as practicable, if it has not already done so.

In addition, the Virgin Islands must: (1) review EIS program performance against targets in the Virgin Islands' SPP; (2) determine if each EIS program 'meets requirements' of IDEA Part C, or 'needs assistance,' 'needs intervention,' or 'needs substantial intervention' in implementing Part C of the IDEA; (3) take appropriate enforcement actions; and (4) inform each EIS program of its determination. For further information regarding these requirements, see "The Right IDEA" Web site at: <http://therightidea.tadnet.org/determinations>. 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 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 Frank Miller, your OSEP State Contact, at 202-245-7065.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove", with a large, stylized flourish at the end.

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

Enclosures

cc: Part C Coordinator