



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

July 1, 2013

Honorable Motusa Tuileama Nua
Director
American Samoa Department of Health
PO Box Department of Health
Government of American Samoa
Pago, Pago, American Samoa 96799

Dear Director Nua:

Thank you for the timely submission of American Samoa's Federal fiscal year (FFY) 2011 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The U. S. Department of Education (Department) has determined that, under IDEA sections 616(d)(2)(A)(ii) and 642, American Samoa "needs assistance" in implementing the requirements of Part C of IDEA. The Department's determination is based on the totality of American Samoa's data and information, including American Samoa's FFY 2011 APR and revised SPP, other State-reported data, and other publicly available information. American Samoa's data are reflected in a new 2013 Compliance Matrix (Compliance Matrix), described below.

American Samoa's determination is based on the data reflected in the enclosed "2013 Part C Compliance Matrix" that the Office of Special Education Programs (OSEP) completed based on American Samoa's data. Also enclosed is the document entitled, "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2013: Part C," which provides a detailed description of how OSEP evaluated States' data using the Compliance Matrix. The Compliance Matrix reflects the compliance data summarized in American Samoa's FFY 2011 APR/SPP Response Table. The specific reason for American Samoa's determination of "needs assistance" is that American Samoa's Compliance Matrix percentage was at least 75% but less than 90%.

The enclosed American Samoa FFY 2011 Response Table provides OSEP's analysis of American Samoa's FFY 2011 APR and revised SPP. The Response Table includes: (1) the Indicators; (2) the Results Data Summary; (3) the Results Data Summary Notes; (4) the Compliance Data Summary; and (5) the Compliance Data Summary Notes. In the Results Data Summary and the Compliance Data Summary, the Response Table sets forth, by indicator, American Samoa's: (1) reported FFY 2010 data; (2) reported FFY 2011 data; and (3) FFY 2011 target(s), in a concise "dashboard" format. The Compliance Data Summary also includes a column that reflects the number of findings of noncompliance identified by American Samoa in FFY 2010, and the correction of those findings. In the "Notes" sections following the Results Data Summary and the Compliance Data Summary, OSEP has provided more detailed information regarding specific indicators, including, where appropriate, information regarding: (1) American Samoa's correction of any remaining findings of noncompliance identified in years prior to FFY 2010; (2) any issues with the validity and reliability of the data that American Samoa reported; and (3) any required actions. It is important that American Samoa read the

information for each indicator in the Results Data Summary and the Compliance Data Summary together with any Notes for that indicator.

American Samoa's determination for FFY 2010 was also needs assistance. In accordance with sections 616(e)(1) and 642 of the IDEA and 34 CFR §303.704(a), 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 advising American Samoa of available sources of technical assistance related to the specific SPP/APR compliance indicator(s) for which American Samoa received a score of less than two points on the attached Compliance Matrix. 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. American Samoa must report with its FFY 2012 APR submission, due February 1, 2014, on: (1) the technical assistance sources from which American Samoa received assistance; and (2) the actions American Samoa took as a result of that technical assistance. The extent to which American Samoa takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should American Samoa not be determined to meet requirements next year. While American Samoa's 2013 determination of needs assistance was based on the Compliance Matrix, we encourage American Samoa to take advantage of available sources of technical assistance to also improve outcomes for children and youth with disabilities and their families.

As required by section 616(e)(7) of the IDEA and 34 CFR §303.706, American Samoa must notify the public within American Samoa that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's Web site and distributing the notice to the media and through public agencies.

Pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642 and 34 CFR §303.702(b)(1)(A), American Samoa must report annually to the public on the performance of each early intervention services program (EIS program) located in American Samoa on the targets in the SPP as soon as practicable, but no later than 120 days after American Samoa's submission of its FFY 2011 APR. In addition, American Samoa must: (1) review EIS program performance against targets in the American Samoa's SPP; (2) determine if each EIS program "meets requirements" of Part C, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part C of the IDEA; (3) take appropriate enforcement action; and (4) inform each EIS program of its determination. *See*, IDEA sections 616(a)(1)(C) and 642 and 34 CFR §303.700(a)(2) and (3). For further information regarding these requirements, see "The Right IDEA" website at: <http://therightidea.tadnet.org/determinations>. Finally, please ensure that your updated SPP is posted on American Samoa lead agency's Web site and made available to the public, consistent with IDEA sections 616(d)(2)(C)(ii)(I) and 642 and 34 CFR §303.702(b)(1).

As you know, OSEP is redesigning its accountability system to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Section 616 of the IDEA requires that the primary focus of IDEA monitoring must be on improving educational results and functional outcomes for children with disabilities, and ensuring that States meet the IDEA program requirements. The monitoring system implemented between 2004 and 2012 placed a heavy emphasis on compliance and we are moving towards a more balanced approach that considers results as well as compliance.

OSEP is committed to several key principles to guide the development of a results-driven accountability system, including transparency, stakeholder involvement, and burden reduction. In support of these principles, we are taking a number of steps. First, we solicited input from special education, early intervention, assessment and early childhood outcomes experts, and gathered input from the public through conference calls, a blog on the Department's website, and through multiple meetings and conferences. Next, OSEP published for comment a new SPP/APR package for FFYs 2013 through 2018 that significantly reduces data collection and reporting burden and shifts the focus of the SPP/APR to improving educational results and functional outcomes for children with disabilities. Third, as explained above, this year OSEP has incorporated compliance data into a matrix that is helpful in simultaneously processing multiple sets of data, and has used this matrix in making determinations. This Compliance Matrix includes a color-coded system (green, yellow, red) which provides a visual representation of State performance. Finally, as we move forward in using results data in determinations, OSEP will provide the public with an opportunity to comment on how we will use results when making determinations in 2014 under IDEA section 616.

OSEP recognizes American Samoa's efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with American Samoa over the next year as we continue our important work of improving the lives of children with disabilities and their families. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Brenda Wilkins, your OSEP State Contact, at 202-245-6920.

Sincerely,

A handwritten signature in black ink that reads "Melody Musgrove Ed.D." with a stylized flourish at the end.

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

Enclosures

cc: Part C Coordinator