



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

June 24, 2021

Honorable Jon J.P. Fernandez
Superintendent of Education
Guam Department of Education
500 Mariner Avenue
Barrigada, Guam 96913

Dear Superintendent Fernandez:

I am writing to advise you of the U. S. Department of Education's (Department) 2021 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Guam needs assistance in implementing the requirements of Part B of the IDEA. This determination is based on the totality of Guam's data and information, including the Federal fiscal year (FFY) 2019 State Performance Plan/Annual Performance Report (SPP/APR), other Entity-reported data, and other publicly available information.

With the FFY 2019 SPP/APR submission, the Office of Special Education Programs (OSEP) requested that States and Entities report whether and how the data collection for any indicator was impacted by the COVID-19 pandemic. Specifically, OSEP requested that States and Entities include in the narrative for each impacted indicator: (1) the impact on data completeness, validity, and/or reliability for the indicator; (2) an explanation of how COVID-19 specifically impacted the State's or Entity's ability to collect and verify the data for the indicator; and (3) any steps the State or Entity took to mitigate the impact of COVID-19 on the data collection and verification. OSEP appreciates States' and Entities' level of transparency regarding the impact of COVID-19 on the data reported in the FFY 2019 SPP/APR. When making determination decisions for 2021, OSEP considered all information submitted that related to the impact of the COVID-19 pandemic. For 2021 determinations, no State or Entity received a determination of "Needs Intervention" due solely to data impacted by COVID-19.

OSEP is continuing to use both results and compliance data in making determinations for outlying areas, freely associated States, and the Bureau of Indian Education (the Entities) in 2021, as it did for determinations in 2020.¹ Guam's 2021 determination is based on the data reflected in the Entity's "2021 Part B Results-Driven

¹ OSEP has used results data on the participation and performance of children with disabilities on the National Assessment of Educational Progress (NAEP) in making determinations for States (but not Entities) since 2014. Although the BIE is the only Entity that administers the NAEP, OSEP has not used NAEP data in making the BIE's determinations because the BIE's NAEP data were previously not available. However, given that the BIE's NAEP data are now available, OSEP is considering using the NAEP data in making the BIE's 2022 determination under IDEA section 616(d).

Accountability Matrix” (RDA Matrix). The RDA Matrix is individualized for each Entity and consists of:

- (1) a Compliance Matrix that includes scoring on Compliance Indicators and other compliance factors;
- (2) a Results Matrix that includes scoring on Results Elements;
- (3) a Compliance Score and a Results Score;
- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) the Entity’s Determination.

The RDA Matrix is further explained in a document, entitled “How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2021: Freely Associated States, Outlying Areas, and the Bureau of Indian Education-Part B” (HTDMD).

The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for Guam. In making Part B determinations in 2021, OSEP used results data related to:

- (1) the percentage of CWD who graduated with a regular high school diploma; and
- (2) the percentage of CWD who dropped out.

You may access the results of OSEP’s review of Guam’s SPP/APR and other relevant data by accessing the EMAPS SPP/APR reporting tool using your Entity-specific log-on information at <https://emaps.ed.gov/suite/>. When you access Guam’s SPP/APR on the site, you will find, in applicable Indicators 1 through 16, the OSEP Response to the indicator and any actions that the Entity is required to take. The actions that the Entity is required to take are in the “Required Actions” section of the indicator.

It is important for you to review the Introduction to the SPP/APR, which may also include language in the “OSEP Response” and/or “Required Actions” sections.

You will also find all of the following important documents saved as attachments:

- (1) Guam’s RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2021 Data Rubric Part B,” which shows how OSEP calculated Guam’s “Timely and Accurate State-Reported Data” score in the Compliance Matrix; and
- (4) a document entitled “Dispute Resolution 2019-2020,” which includes the IDEA section 618 data that OSEP used to calculate Guam’s “Timely State Complaint Decisions” and “Timely Due Process Hearing Decisions” scores in the Compliance Matrix.

As noted above, Guam’s 2021 determination is Needs Assistance. A State’s or Entity’s 2021 RDA Determination is Needs Assistance if the RDA Percentage is at least 60% but less than 80%. A State’s or Entity’s determination would also be Needs Assistance if its RDA Determination percentage is 80% or above but the Department has imposed Specific Conditions on the State’s or Entity’s last three IDEA Part B grant awards (for FFYs 2018, 2019, and 2020), and those Specific Conditions are in effect at the time of the 2021 determination.

Guam's determination for 2020 was also Needs Assistance. In accordance with section 616(e)(1) of the IDEA and 34 C.F.R. § 300.604(a), if a State or Entity is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions:

- (1) advise the State or Entity of available sources of technical assistance that may help the State or Entity address the areas in which it needs assistance and require the State or Entity to work with appropriate entities;
- (2) direct the use of State or Entity-level funds on the area or areas in which the State or Entity needs assistance; or
- (3) identify the State or Entity as a high-risk grantee and impose Specific Conditions on the State's or Entity's IDEA Part B grant award.

Pursuant to these requirements, the Secretary is advising Guam of available sources of technical assistance, including OSEP-funded technical assistance centers and resources at the following website: <https://osep.communities.ed.gov>, and requiring Guam to work with appropriate entities. In addition, Guam should consider accessing technical assistance from other Department-funded centers such as the Comprehensive Centers with resources at the following link: <https://compcenternetwork.org/states>. The Secretary directs Guam to determine the results elements and/or compliance indicators, and improvement strategies, on which it will focus its use of available technical assistance, in order to improve its performance. We strongly encourage Guam to access technical assistance related to those results elements and compliance indicators for which Guam received a score of zero. Guam must report with its FFY 2020 SPP/APR submission, due February 1, 2022, on:

- (1) the technical assistance sources from which Guam received assistance; and
- (2) the actions Guam took as a result of that technical assistance.

As required by IDEA section 616(e)(7) and 34 C.F.R. § 300.606, Guam must notify the public that the Secretary of Education has taken the above enforcement actions, including, at a minimum, by posting a public notice on its website and distributing the notice to the media and through public agencies.

As a reminder, Guam must make its SPP/APR available to the public by posting it on its agency's website. Within the upcoming weeks, OSEP will be finalizing an Entity Profile that:

- (1) includes the Entity's determination letter and SPP/APR, OSEP attachments, and all Entity attachments that are accessible in accordance with Section 508 of the Rehabilitation Act of 1973; and
- (2) will be accessible to the public via the ed.gov website.

States and Entities were required to submit Phase III Year Five of the SSIP by April 1, 2021. OSEP appreciates Guam's ongoing work on its SSIP and its efforts to improve results for students with disabilities. We have carefully reviewed and responded to your submission and will provide additional feedback in the upcoming weeks. Additionally, OSEP will continue to provide technical assistance to Guam as it implements the SSIP, which is due on February 1, 2022.

OSEP appreciates Guam's efforts to improve results for children and youth with disabilities and looks forward to working with Guam over the next year as we continue our important work of improving the lives of children with disabilities and their families. Please contact your OSEP State Lead if you have any questions, would like to discuss this further, or want to request technical assistance.

Sincerely,



David Cantrell, PhD

Acting Director

Office of Special Education Programs

cc: Guam Director of Special Education