



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

June 22, 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 sections 616 and 642 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Guam needs assistance in meeting the requirements of Part C of the IDEA. This determination is based on the totality of the Guam's data and information, including the Federal fiscal year (FFY) 2019 State Performance Plan/Annual Performance Report (SPP/APR), other State-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.

Guam's 2021 determination is based on the data reflected in Guam's "2021 Part C Results-Driven Accountability Matrix" (RDA Matrix). The RDA Matrix is individualized for each State and consists of:

- (1) a Compliance Matrix that includes scoring on Compliance Indicators and other compliance factors;
- (2) Results Components and Appendices that include scoring on Results Elements;
- (3) a Compliance Score and a Results Score;

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- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) Guam’s Determination.

The RDA Matrix is further explained in a document, entitled “How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2021: Part C” (HTDMD).

OSEP is continuing to use both results data and compliance data in making the Department’s determinations in 2021, as it did for the Part C determinations in 2015-2020. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for Guam.) For 2021, the Department’s IDEA Part C determinations continue to include consideration of each State’s Child Outcomes data, which measure how children who receive Part C services are improving functioning in three outcome areas that are critical to school readiness:

- positive social-emotional skills;
- acquisition and use of knowledge and skills (including early language/communication); and
- use of appropriate behaviors to meet their needs.

Specifically, the Department considered the data quality and the child performance levels in each State’s Child Outcomes FFY 2019 data.

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 State-specific log-on information at <https://emaps.ed.gov/suite/>. When you access Guam’s SPP/APR on the site, you will find, in Indicators 1 through 10, the OSEP Response to the indicator and any actions that Guam is required to take. The actions that Guam 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 to the Progress Page:

- (1) Guam’s RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2021 Data Rubric Part C,” 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 2021 RDA Determination is Needs Assistance if the RDA Percentage is at least 60% but less than 80%. A State 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 last three IDEA Part C 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. § 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 and require the State to work with appropriate entities; and/or
- (2) identify the State as a high-risk grantee and impose Specific Conditions on the State's IDEA Part C 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 the State 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. § 303.706, Guam must notify the public that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on its website and distributing the notice to the media and to early intervention service (EIS) programs.

States 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 infants and toddlers with disabilities and their families. 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.

As a reminder, Guam must report annually to the public, by posting on the State lead agency's website, on the performance of each EIS program located in the State on the targets in the SPP/APR as soon as practicable, but no later than 120 days after the Guam's submission of its FFY 2019 SPP/APR. In addition, Guam must:

- (1) review EIS program performance against targets in the Guam's SPP/APR;
- (2) determine if each EIS program "meets the 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.

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

- (1) includes Guam's determination letter and SPP/APR, OSEP attachments, and all Guam 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.

OSEP appreciates Guam's efforts to improve results for infants and toddlers with disabilities and their families 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: State Part C Coordinator