



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

June 22, 2022

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) 2022 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 Guam's data and information, including the Federal fiscal year (FFY) 2020 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

With the FFY 2020 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 2020 SPP/APR. When making determination decisions for 2022, OSEP considered all information submitted that related to the impact of the COVID-19 pandemic. For 2022 determinations, as with 2021 determinations, no State or Entity received a determination of "Needs Intervention" due solely to data impacted by COVID-19.

Guam's 2022 determination is based on the data reflected in Guam's "2022 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;
- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) Guam's Determination.

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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 2022: Part C” (HTDMD).

OSEP is continuing to use both results data and compliance data in making the Department’s determinations in 2022, as it did for the Part C determinations in 2015-2021. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for Guam.) For 2022, 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 2020 data.

In 2022, States were required to submit a new SPP/APR for FFYs 2020 through 2025. The 2022 submission of the SPP/APR is the third six-year SPP and includes baseline data and measurable and rigorous targets for FFY 2020 through FFY 2025 for each indicator in the SPP/APR. OSEP has reviewed and approved your State’s SPP under IDEA Section 616(b) to include measurable and rigorous targets for FFY 2025 that reflect improvement over the State’s baseline data. Any action required by the State is reflected in OSEP’s response.

For the Department’s 2023 determinations, the Department is reviewing and considering whether and how to use existing indicators and/or other available data in making its determinations as part of its continuing effort to prioritize equity and improve results for infants, toddlers and children with disabilities. In April 2022, the Department released an equity action plan as part of its efforts to advance racial equity and support underserved communities. Examples of existing indicators that could be considered and/or be weighted differently include indicators on child find (for Part C) and/or significant discrepancy and disproportionate representation (for Part B). We will offer opportunities for input from the public, including parents, agencies that implement IDEA and other stakeholders, to provide feedback in the coming months, starting with the OSEP Leadership Conference in July 2022 as well as through email submissions and listening sessions open to the public.

As noted earlier, for its 2021 and 2022 determinations, the Department did not issue a determination of “Needs Intervention” to any State because States’ SPP/APR data collections for FFY 2019 and FFY 2020 were impacted by COVID-19. OSEP is considering, but has not yet determined, whether and how a State’s FFY 2021 SPP/APR data collection that was affected by COVID-19 will be considered in the Department’s 2023 determinations.

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 11, 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 “2022 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 2020-2021,” 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 2022 determination is Needs Assistance. A State’s 2022 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 2019, 2020, and 2021), and those Specific Conditions are in effect at the time of the 2022 determination.

Guam’s determination for 2021 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 websites: [Monitoring and State Improvement Planning \(MSIP\) | OSEP Ideas That Work](#), [Individuals with Disabilities Education Act \(IDEA\) Topic Areas](#), 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 2021 SPP/APR submission, due February 1, 2023, 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.

As a reminder, 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 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,

/s/

Valerie Williams
Director
Office of Special Education Programs

cc: State Part C Coordinator