



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

June 23, 2023

Honorable Kenneth Swanson
Superintendent
Guam Department of Education
501 Mariner Avenue
Barrigada, GU 96913

Dear Superintendent Swanson:

I am writing to advise you of the U. S. Department of Education’s (Department) 2023 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) 2021 State Performance Plan/Annual Performance Report (SPP/APR), other Entity-reported data, and other publicly available information.

The Office of Special Education Programs (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 2023, as it did for determinations in 2022.¹ Guam’s 2023 determination is based on the data reflected in the Entity’s “2023 Part B Results-Driven 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 2023: Freely Associated States, Outlying Areas, and the Bureau of Indian Education-Part B](#)” (HTDMD).

¹ For the 2023 determinations, OSEP is using results data on the participation and performance of children with disabilities on the National Assessment of Educational Progress (NAEP) for the 50 States, the District of Columbia, and Puerto Rico. Starting in 2023, OSEP is using the NAEP data in making Puerto Rico’s determination (as indicated in the 2022 determination letters to States and Entities). OSEP did not use NAEP data in making the BIE’s 2023 determination because the NAEP data available for the BIE were not comparable to the NAEP data available for the 50 States, the District of Columbia, and Puerto Rico; specifically, the most recently administered NAEP for the BIE is 2019, whereas the most recently administered NAEP for the 50 States, the District of Columbia, and Puerto Rico is 2022.

The specifics of the determination procedures and criteria are set forth in the HTDMD document and reflected in the RDA Matrix for Guam. In making Part B determinations in 2023, OSEP used results data related to:

- (1) the participation of children with disabilities (CWD) on Regular statewide assessments;
- (2) the percentage of CWD who graduated with a regular high school diploma; and
- (3) the percentage of CWD who dropped out.

Prior to issuing the 2023 determinations, the Department asked stakeholders for input regarding how the Department might prioritize equity and improve results for infants, toddlers, children and youth with disabilities. OSEP received input through a variety of sources. For its 2023 determinations, OSEP has factored only programmatic (not Department-wide) specific conditions when scoring the Longstanding Noncompliance element of the Compliance Matrix. Also, while Indicator 4B (significant discrepancy, by race or ethnicity, in rates of suspension and expulsion for children with disabilities) continued to be a factor in each Entity's 2023 Compliance Matrix, no Entity's 2023 determination was negatively impacted due solely to its Indicator 4B data.

For 2024 and beyond, the Department is considering the weight of existing as well as potential additional factors in making its determinations as part of its continuing effort to prioritize equity and improve results for infants, toddlers, children, and youth with disabilities. Potential additional factors include how the Department considers assessment data, such as whether to continue including data on the participation and proficiency of CWD on the NAEP and/or whether to include data on the proficiency of CWD on Statewide assessments. Other potential factors include whether and how to consider child find under Indicators C-5 and C-6 and/or other longstanding noncompliance (such as unresolved findings issued by OSEP during and prior to FFY 2020).

Starting with the 2022-23 data submitted to EDFacts, States or Entities will submit the majority of the IDEA Section 618 data collections (i.e., Part B Child Count and Educational Environments, Part B Personnel, Part B Exiting, Part B Discipline, and Part B Assessment) via the new EDPass system. The Part B Dispute Resolution and the Part B Maintenance of Effort Reduction and Coordinated Early intervening Services data will continue to be submitted via EMAPS.

The 2022-23 IDEA Section 618 Part B data will continue to prepopulate the Part B SPP/APR Indicators 3, 5, and 6 as they have in the past. However, please note that there will be changes to the data submission and data quality processes associated with the 2022-23 IDEA Section 618 Part B data under EDFacts Modernization. Under EDFacts Modernization, States or Entities are expected to submit high-quality IDEA Section 618 Part B data that can be published and used by the Department as of the due date for the applicable IDEA Section 618 data submission. Starting with the 2022-23 IDEA Section 618 Part B data, States or Entities will be expected to conduct data quality reviews prior to the applicable due date. OSEP will expect States or Entities to take one of the following two actions for all business rules that are triggered in the EDPass or EMAPS system prior to the applicable due date: 1) revise the uploaded data to address the edit; or 2) provide a data note addressing why the data submission triggered the business rule. Please note that States or Entities will be unable to submit the IDEA Section 618 Part B data to the Department without taking one of these two actions. There will not be a resubmission period for

the IDEA Section 618 Part B data. The 2022-23 IDEA Section 618 Part B data submitted as of the applicable due date will be used for the FFY 2022 SPP/APR and the 2024 IDEA Part B Results Matrix.

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 17, 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 “2023 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 2021-2022,” 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 2023 determination is Needs Assistance. A State’s or Entity’s 2023 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 2020, 2021, and 2022), and those Specific Conditions are in effect at the time of the 2022 determination.

Guam’s determination for 2022 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 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 2022 SPP/APR submission, due February 1, 2024, 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.

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,

/s/

Valerie Williams
Director
Office of Special Education Programs

cc: Guam Director of Special Education