



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

June 22, 2021

Honorable Justa Encarnacion, RN, BSN, MBA/HCM
Commissioner Designee
USVI Department of Health
1303 Hospital Ground, Suite 10
Charlotte Amalie, St. Thomas, Virgin Islands 00802

Dear Commissioner Encarnacion:

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 the Virgin Islands needs assistance in meeting the requirements of Part C of the IDEA. This determination is based on the totality of the Virgin Islands' 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.

The Virgin Islands' 2021 determination is based on the data reflected in the Virgin Islands' "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) the Virgin Islands' 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 the Virgin Islands) 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 the Virgin Islands' SPP/APR and other relevant data by accessing the EMAPS SPP/APR reporting tool using your specific log-on information at <https://emaps.ed.gov/suite/>. When you access the Virgin Islands' SPP/APR on the site, you will find, in Indicators 1 through 10, the OSEP Response to the indicator and any actions that the Virgin Islands is required to take. The actions that the Virgin Islands 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) the Virgin Islands' RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2021 Data Rubric Part C,” which shows how OSEP calculated the Virgin Islands' “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 the Virgin Islands' “Timely State Complaint Decisions” and “Timely Due Process Hearing Decisions” scores in the Compliance Matrix.

As noted above, the Virgin Islands' 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.

The Virgin Islands' 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 the State 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 the Virgin Islands to work with appropriate entities. In addition, the Virgin Islands 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 Virgin Islands 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 the Virgin Islands to access technical assistance related to those results elements and compliance indicators for which the Virgin Islands received a score of zero. The Virgin Islands must report with its FFY 2020 SPP/APR submission, due February 1, 2022, on:

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

As required by IDEA section 616(e)(7) and 34 C.F.R. § 303.706, Virgin Islands 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 the Virgin Islands' 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 the Virgin Islands as it implements the SSIP, which is due on February 1, 2022.

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

- (1) review EIS program performance against targets in the Virgin Islands' 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, the Virgin Islands must make its SPP/APR available to the public by posting it on the State lead agency’s website. Within the upcoming weeks, OSEP will be finalizing a State Profile that:

- (1) includes the Virgin Islands’ determination letter and SPP/APR, OSEP attachments, and all State 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 the Virgin Islands efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with the Virgin Islands 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