



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

June 28, 2018

Honorable Jon J.P. Fernandez
Superintendent
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) 2018 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) 2016 State Performance Plan/Annual Performance Report (SPP/APR), other Entity-reported data, and other publicly available information.

Protecting the rights of children with disabilities and their families is a key responsibility of States, but it is not sufficient if children are not attaining the knowledge and skills necessary to achieve the goals of IDEA as reflected in Congressional findings in section 601(c)(1) of the IDEA: equality of opportunity, full participation, independent living, and economic self-sufficiency. To address this concern, the Office of Special Education Programs (OSEP) has been using results data when making annual determinations for States under IDEA section 616(d) since 2014, and this year for the first time, the Department used results data when making determinations for outlying areas, freely associated States and the Bureau of Indian Education (the Entities).

OSEP informed the Entities in their 2017 determination letters, that it was considering using both compliance and results data when making determinations in 2018. Over the past year, OSEP has solicited input from the Entities on multiple occasions; in a face to face meeting on July 19, 2017 and subsequent conference calls with technical assistance providers who shared additional questions and suggestions collected from Entities in later meetings. After careful consideration of the input provided by each of the Entities, technical assistance providers, and other stakeholders, OSEP developed an equitable and reasonable process for using results data with compliance data in making determinations for each Entity. In early February 2018, OSEP sent a letter to Guam's Chief State School Officer explaining how both results and compliance data would be used in making 2018 determinations.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Guam’s 2018 determination is based on the data reflected in the Entity’s “2018 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 2018: 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 2018, 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.

You may access the results of OSEP’s review of Guam’s SPP/APR and other relevant data by accessing the SPP/APR module using your Entity-specific log-on information at <https://osep.grads360.org>. 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 two places:

- (1) actions related to the correction of findings of noncompliance are in the “OSEP Response” section of the indicator; and
- (2) any other 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 to the Progress Page:

- (1) Guam’s RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2018 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 2016-17,” 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 2018 determination is Needs Assistance. A State’s or Entity’s 2018 RDA Determination is Needs Assistance if the RDA Percentage is at least 60% but less than 80%. A State or Entity would also be Needs Assistance if its RDA Determination percentage is 80% or above but the Department has imposed Special Conditions on the State’s or Entity’s last three *IDEA* Part B grant awards (for FFYs 2015, 2016, and 2017), and those Special Conditions are in effect at the time of the 2018 determination.

Guam’s determination for 2017 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 the 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 Special 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.grads360.org/#program/highlighted-resources/>, 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: <http://www2.ed.gov/programs/newccp/index.html>. 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 2017 SPP/APR submission, due February 1, 2019, 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 CFR §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.

States and Entities were required to submit Phase III Year Two of the State Systemic Improvement Plan (SSIP) by April 2, 2018. OSEP appreciates Guam’s ongoing work on its SSIP and its efforts to improve results for students with disabilities. We have carefully reviewed your submission and will provide feedback in the upcoming weeks. Additionally, OSEP will continue to work with Guam as it implements the third year of Phase III of the SSIP, which is due on April 1, 2019.

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

- (1) will be accessible to the public;
- (2) includes Guam's determination letter and SPP/APR, and all related State and OSEP attachments; and
- (3) can be accessed via a URL unique to your Entity, which you can use to make your SPP/APR available to the public. We will provide you with the unique URL when it is live.

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,

A handwritten signature in black ink, appearing to read "Ruth E. Ryder", written over a horizontal line.

Ruth E. Ryder
Acting Director
Office of Special Education Programs

cc: Guam Director of Special Education