



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

June 28, 2017

Honorable Sharon Ann McCollum
Commissioner of Education
Virgin Islands Department of Education
1834 Kongens Gade
St. Thomas, Virgin Islands 00802

Dear Commissioner McCollum:

I am writing to advise you of the U. S. Department of Education's (Department) 2017 determination under section 616 of the *Individuals with Disabilities Education Act (IDEA)*. The Department has determined that the Virgin Islands needs assistance in implementing the requirements of Part B of the *IDEA*. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2015 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

The Virgin Islands' 2017 determination is based on the data reflected in the Virgin Islands' "Part B Compliance Matrix – 2017" (Compliance Matrix). The Compliance Matrix is further explained in a document, entitled "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act Part B in 2017 -- Entities with Determinations Based on Compliance" (HTDMD Compliance Only).

Although OSEP is continuing to use both results data and compliance data in making determinations in 2017 for other States, the Department is continuing to use only compliance data when making 2017 determinations for the following entities: American Samoa, the Bureau of Indian Education, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands. Therefore, the Department is using the criteria set forth in the HTDMD Compliance Only, which are similar to the criteria the Department used to make determinations for these entities in 2013, 2014, 2015 and 2016. In making Part B determinations in 2017 for other States, OSEP used results data related to the participation of children with disabilities (CWD) on regular Statewide assessments, the participation and performance of CWD on the National Assessment of Educational Progress, and exiting data on CWD who dropped out and CWD who graduated with a regular high school diploma, as reported by States under section 618 of the *IDEA*. The entities have results data available for some, but not all, of these Results Elements.

The Department is considering using both compliance and results data for the entities' 2018 determinations. Section 616(a)(2) of the *IDEA* requires that the primary focus of *IDEA* monitoring must be on improving educational results and functional outcomes for all children

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with disabilities, and ensuring that States meet the IDEA program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities. We believe that taking this more balanced approach, using both compliance and available results data, is consistent with this statutory provision and will allow entities to better focus on improving results for children with disabilities who they serve. As we consider using results data in determinations, OSEP will provide the entities with an opportunity to comment and provide input on how we should use results data when making determinations in 2018 under IDEA section 616.

You may access the results of OSEP's review of the Virgin Islands' SPP/APR and other relevant data by accessing the SPP/APR module using your entity-specific log-on information at osep.grads360.org. When you access the Virgin Islands' SPP/APR on the site, you will find, in 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 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' Compliance Matrix;
- (2) the HTDMD Compliance Only document;
- (3) a spreadsheet entitled "2017 Data Rubric Part B," which shows how OSEP calculated the Virgin Islands' "Timely and Accurate State-Reported Data" score in the Compliance Matrix;
- (4) a document entitled "Dispute Resolution 2015-16," which includes the *IDEA* section 618 data that OSEP used to calculate the entity's "Timely State Complaint Decisions" and "Timely Due Process Hearing Decisions" scores in the Compliance Matrix; and
- (5) a Data Display, which presents certain entity-reported data in a transparent, user-friendly manner and is helpful for the public in getting a broader picture of the Virgin Islands' performance in key areas.

As noted above, the Virgin Islands' determination is Needs Assistance. The 2017 determination for an entity whose determination is based on the Compliance Matrix is Needs Assistance if the Compliance Matrix percentage was at least 75%, but less than 90%, or was below 75% but the entity does not meet the criteria for Needs Intervention as set forth in the HTDMD Compliance Only document. An entity would also be Needs Assistance if its Compliance Matrix percentage was at least 90%, but the Department has imposed Special Conditions on the entity's last three (FFYs 2014, 2015, and 2016) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the Department's 2017 determination.

Virgin Islands' determination for 2016 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 State or entity needs assistance and require the State or entity to work with appropriate entities;
- (2) direct the use of State-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 continuing to require the Virgin Islands to access technical assistance related to its FFY 2017 Department-wide special conditions and status as a high-risk grantee through the Department's Risk Management Service. The Virgin Islands must timely submit any reports required under these Department-wide Special Conditions.

States were required to submit Phase III of the State Systemic Improvement Plan (SSIP) by April 1, 2017. OSEP appreciates the Virgin Islands' 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 your entity as it implements the second year of Phase III of the SSIP, which is due on April 3, 2018.

As a reminder, the Virgin Islands must report annually to the public, by posting on the Virgin Islands' Department of Education's website, the performance of each local educational agency located in the State on targets in the SPP/APR as soon as practicable, but no later than 120 days after the State's submission of its FFY 2015 SPP/APR. In addition, the Virgin Islands must:

- (1) review each LEA performance against targets in the Virgin Islands' SPP/APR;
- (2) determine if each LEA "meets the requirements" of the Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the *IDEA*;
- (3) take appropriate enforcement action; and
- (4) inform each LEA of its determination.

Further, the Virgin Islands must make its SPP/APR available to the public by posting it on the State educational agency's website. Within the next several days, OSEP will be finalizing a State Profile for your entity that:

- (1) will be accessible to the public;
- (2) includes the entity's determination letter and SPP/APR, and all related entity 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 the Virgin Islands' efforts to improve results for children and youth with disabilities and looks forward to working with your entity 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/ Ruth E. Ryder

Ruth E. Ryder
Acting Director
Office of Special Education Programs

cc: Director of Special Education