



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

JUN - 1 2009

Honorable Casiano Shoniber
Secretary of Health, Education, and Social Services
Department of Education
Federated States of Micronesia
P.O. Box PS 70
Pohnpei State, FSM 96941

Dear Secretary Shoniber:

Thank you for the timely submission of Federated States of Micronesia's (FSM's) Federal fiscal year (FFY) 2007 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA). We also acknowledge the revisions to FSM's APR and SPP received on April 7, 2009. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA section 616(d), FSM needs assistance in meeting the requirements of Part B of IDEA. The Department's determination is based on the totality of the FSM's data and information including the FSM's FFY 2007 APR and revised SPP, other State-reported data, information obtained through verification visits, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2009" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for FSM were: (1) 83% compliance for Indicator 11 and did not report correction; (2) 54% compliance for Indicator 13 and did not report correction; (3) 75% compliance for Indicator 15; (4) 91% compliance for Indicator 20; and (5) the failure of FSM to fully correct noncompliance that was identified in OSEP's July 17, 2007 verification letter. We hope that FSM will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the FSM's FFY 2007 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the FSM to its targets, improvement activities (timelines and resources) and baseline data in the State's SPP. The table also identifies, by indicator, the FSM's status in meeting its targets, whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data.

The FSM's determination for the FFY 2006 APR also was needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 CFR §300.604, 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; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose special conditions on the State's Part B grant award.

Pursuant to these requirements, the Secretary is advising the FSM of available sources of technical assistance related to Indicator 11 (timely initial evaluations), Indicator 13 (secondary transition), Indicator 15 (timely correction of noncompliance), and Indicator 20 (timely and accurate data requirements). A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the “Technical Assistance Related to Determinations” box on the opening page of the SPP/APR Planning Calendar website at <http://spp-apr-calendar.rrfcnetwork.org/techassistance.html>. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator. For the indicator(s) listed above, your State must report with its FFY 2008 APR submission, due February 1, 2010, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the FSM took as a result of that technical assistance. The extent to which the FSM takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should the FSM not be determined to meet requirements next year. We encourage FSM to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

In its October 17, 2008 Memorandum 09-02, “Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA,” OSEP provided Chief State School Officers and Lead Agency Directors with important information regarding: (1) requirements for identifying noncompliance and reporting on the correction of noncompliance in States’ APRs; and (2) how OSEP will, beginning with the FFY 2008 APR, due February 1, 2010, consider the correction of noncompliance in making annual determinations for States pursuant to section 616(d) of the IDEA. Most significantly, beginning with our 2010 determinations:

1. OSEP will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year’s noncompliance if the State’s current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
2. OSEP will credit a State with correction of noncompliance relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year’s APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report, for each compliance indicator, whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year’s APR as well as that identified by the Department more than one year previously.

It is important for each State to review the guidance in the memorandum, and to raise any questions with your OSEP State Contact. The memorandum may be found at: <http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/536>.

OSEP is committed to supporting FSM's efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Genee Norbert, your OSEP State Contact, at 202-245-7326.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education