



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

Honorable Juan Flores  
Superintendent of Education  
Department of Education Post Office Box  
Hagtna, Guam 96932

MAR -2 2005

Dear Superintendent Flores:

The purpose of this letter is to respond to the Guam Department of Education's (GDOE's) Federal Fiscal Year (FFY) 2001 Annual Performance Report (APR), FFY 2002 APR and May 2003 Self-Assessment under Part C of the Individuals with Disabilities Education Act (IDEA). States are required to submit the FFY 2001 APR for Part C funds used during the grant period July 1, 2001 through June 30, 2002 and the FFY 2002 APR for Part C funds used during the grant period July 1, 2002 through June 30, 2003. The FFY 2001 and 2002 APRs are intended to reflect actual accomplishments made by the State during the reporting period, compared to established objectives. The APR is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part C APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

### ***Background***

Guam submitted its Self-Assessment dated May 30, 2003 and, as requested, an Improvement Plan as part of its FFY 2002 APR, due March 31, 2004. Guam submitted its FFY 2001 APR in June 2003 and its FFY 2002 APR and Improvement Plan in April 2004. OSEP provided informal verbal feedback on the Self-Assessment to Guam staff following OSEP's National Early Childhood Leadership Conference in Washington, D.C. in November 2003, and in May 2004 following OSEP's National Leadership Conference. OSEP also provided informal written feedback in an e-mail communication to the Guam Department of Education (GDOE) on May 7, 2004. In May 2004, OSEP conducted a visit to Guam to verify the effectiveness of its Part C systems for general supervision and data collection under section 618 of IDEA. The results of that visit are summarized in a

separate letter. The APR is intended to reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas (as well as any other areas identified by the State to ensure improvement).

Because it is OSEP's intent to consolidate improvement planning and performance reporting activities, OSEP is commenting on Guam's May 2003 Self-Assessment, FFY 2001 APR, FFY 2002 APR, and Improvement Plan in this letter. OSEP's Memorandum regarding the submission of APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition. OSEP's responses are organized by each cluster area below.

### ***General Supervision***

Under Part C, States are responsible for the general supervision of programs and activities that are part of the Part C early intervention system in the State as set forth at 34 CFR §303.501(a)(1). This includes the responsibility to have in place: (1) a monitoring system that identifies and timely corrects noncompliance with Part C; (2) supervision of personnel qualified to provide Part C services; (3) a dispute resolution system that ensures the timely resolution of complaints and due process hearings; (4) a data system that ensures the compilation and accuracy of data reported under Section 618 of the IDEA as well as to support the State's monitoring system; and (5) fiscal control and accounting procedures to ensure proper disbursement of, and accounting for, Part C Federal funds.

### **Monitoring**

Under Part C, a lead agency must monitor agencies, institutions, and organizations used by the State to carry out the implementation of Part C, enforce Part C obligations, provide technical assistance where necessary, and correct deficiencies identified through monitoring (see 34 CFR §303.501(b)). The Guam Early Intervention System (GEIS), under the GDOE, has the responsibility for ensuring Part C requirements for infants and toddlers with disabilities. Page 13 of the General Supervision section of the Self-Assessment stated that the Compliance Review Process did not include a specific review process for monitoring the Part C program, and that in April 2001 the Part C program was monitored using a modified checklist for compliance. The Self-Assessment on page 2 of the General Supervision section indicated that monitoring instruments and procedures needed revision to ensure a complete review of compliance areas and that there was "no evidence of accountability and use of enforcement actions" to ensure full implementation of a monitoring process.

GDOE reported on page 4 of its FFY 2001 APR, that the deficiencies identified during the April/May 2001 monitoring visit were corrected in a timely manner. However, beyond the compliance review of 2001, it was "difficult to identify deficiencies on a consistent basis." The FFY 2001 APR on page 3 reported that the lead agency utilized a three-year cycle for a formal compliance monitoring review of the GEIS and that the next cycle date for a compliance review would be April/May 2004. On page 2 of the FFY

2002 APR, GDOE reported that Part C has implemented monthly reviews with staff as a means for monitoring supports and services provided for all steps from identification to individualized family service plan (IFSP) implementation, including a monthly review of IFSPs.

During OSEP's May 2004 verification visit, GDOE staff reported that Part C services were provided entirely by GDOE staff, and that GDOE monitored the Part C program under its three-year monitoring cycle. In May 2004, GDOE reported that GEIS had been monitored in April 2001 and all corrective actions from that monitoring visit had been made within the February 2002 timeline. GDOE also reported to OSEP that GEIS conducts monthly reviews of IFSPs to ensure that all required components were addressed and accurate data were included in the Part C system for reporting under IDEA section 618. This information is consistent with the information provided in the APR.

Goals 2, 3 and 4 of the Improvement Plan and pages 3 and 5 of the FFY 2002 APR listed a number of activities related to the monitoring system, including: reviewing and revising its monitoring procedures to include all Part C requirements; analyzing and reporting the results from GDOE's monitoring activities; developing and implementing a comprehensive database for dissemination and analysis of findings to identify and remediate systemic issues; and revising the Compliance Review Process to include progressive sanctions for persistent deficiencies by the summer of 2004.

Based on information provided in the FFY 2001 and 2002 APRs and the Improvement Plan, OSEP could not determine if GDOE is complying with the requirement in 34 CFR §303.501(b) to identify and correct noncompliance through monitoring. In the next APR, GDOE must submit data, along with its analysis and a determination of whether GDOE is complying with 34 CFR §303.501(b). GDOE must submit the following information: (1) any revisions made to the Compliance Review Process to ensure that all Part C requirements are met and that enforcement actions are in place to address persistent deficiencies; (2) the areas of noncompliance identified in the Compliance Review Process of the Part C program conducted in April/May 2004 and the status of correction of any identified deficiencies; (3) the areas of noncompliance identified in the monthly reviews of IFSPs through staffing with service coordinators; and (4) procedures that GDOE uses to ensure that identified noncompliance is corrected in a timely manner (i.e., within one year of identification). If the data demonstrate noncompliance with 34 CFR §303.501(b), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan.

GDOE reported on page 3 of the FFY 2002 APR, that there was sufficient staff to meet the early intervention needs of all eligible infants and toddlers and their families, with the exception of an audiologist and a physical therapist. GDOE reported that during the reporting period it used the audiologist and a physical therapist that provided Part B services, and contracted out for direct physical therapy services. On page 4 of the FFY 2002 APR, GDOE reported that it would continue ongoing recruitment and retention efforts to ensure there were sufficient numbers of administrators, service coordinators,

teachers, service providers, paraprofessionals and other providers to meet the identified early intervention needs of all eligible infants and toddlers and their families. OSEP looks forward to reviewing data in the FFY 2003 APR, due April 29, 2005, demonstrating the impact of GDOE's strategies on continued performance and compliance in this area.

#### Data

Under Part C, the lead agency must have mechanisms in place to collect, compile and submit data (e.g., 618 State reported data, due process hearings, complaints, mediations, etc.) and to identify systemic issues and problems with data (see 34 CFR §303.540). In both the FFY 2001 and FFY 2002 APRs, GDOE reported on data that it utilized, including data on personnel, IFSPs, parent surveys, and child identification. On page 11 of the FFY 2001 APR, GDOE reported that prior to October 2001, the Part B data system kept only basic information about children served under Part C, and during school year 2000-2001 a new stand-alone database was designed for Part C which managed all Part C activities in a more comprehensive manner, including detailed tracking of timelines from intake through IFSP and transition to Part B. On page 4 of the FFY 2002 APR, GDOE reported that it would continue activities designed to ensure the collection and reporting of accurate data. GDOE recently requested, and was granted, approval to purchase a server dedicated to Part C to more efficiently and accurately compile data and generate reports useful in exercising its general supervision responsibilities.

Goal 2 of the Improvement Plan included strategies to improve data collection, including the development and implementation of a comprehensive compliance database to generate reports (including complaints, mediations, due process and monitoring reports). As noted in the verification letter, while existing mechanisms ensure the reliability, validity and accuracy of data, the combining of data systems into a single, integrated data system would improve efficiency and allow GDOE to better utilize the data to make performance and compliance determinations. In the next APR, GDOE must continue to report on its performance in this cluster area and its progress on developing and implementing a comprehensive database.

#### Complaints, Due Process and Prior Written Notice

GDOE must ensure that it has a dispute resolution system that ensures the timely resolution of complaints and due process hearings. Guam reported on page 3 of the FFY 2002 APR, that there were no complaint, mediation or due process requests during the reporting period. OSEP cannot determine whether the lack of administrative complaints and/or due process hearing requests is due to a high degree of family satisfaction with Part C services, or whether parents have not been sufficiently informed regarding Guam's Part C dispute resolution procedures.

GDOE identified the following activities on pages 4 and 5 of the FFY 2002 APR to address the issue: (1) ongoing service coordinator training on procedural safeguards; (2) obtaining feedback from families regarding their awareness and access to their rights by June 2004; and (3) ensuring that all eligible families participate in awareness activities related to procedural safeguards by December 2004.

Part C requires that prior written notice under 34 CFR §303.403(b)(including a description of all procedural safeguards available under 34 CFR §§303.401 through 303.460 and State complaint procedures under 34 CFR §§303.510 through 303.512), be provided in the native language of parents, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure that the notice is translated orally, the parent understands the notice, and there is written evidence that the requirements of this paragraph have been met (34 CFR §303.403(c)(1) and (2)). Page 9 of Section II of the Self-Assessment stated that there was no standard mechanism or clear procedure for documenting that the Notice of Parent Rights was written in language understandable to the general public and provided in a parent's native language or other mode of communication, unless clearly not feasible to do so. On page 2 of the FFY 2002 APR, GDOE included data that indicated that 97% of the 33 IFSPs reviewed (33 of 218 IFSP's were reviewed) included documentation that the notice, including parents' rights, was either "orally translated or that it was not feasible to do so." In the next APR, GDOE must clarify why the notice was orally translated. Was the notice orally translated because it was not feasible to translate the written notice into the native language of the parents or because the native language or other mode of communication of the parent was not a written language?

Based on the information in the FFY 2002 APR, OSEP could not determine if GDOE is complying with 34 CFR §303.403(c)(1) and (2). In the next APR, OSEP requests that GDOE provide data, along with a determination of compliance or noncompliance. If the data demonstrate noncompliance with 34 CFR §303.403(c)(1) and (2), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan.

### ***Comprehensive Public Awareness and Child Find System***

Under Part C, the lead agency is responsible for the development of a comprehensive, coordinated child find system that ensures all infants and toddlers who are eligible for services under Part C are identified, located, and evaluated in a timely manner as required by 34 CFR §303.321. The data presented in the Self-Assessment on page 2 and pages 4 to 12, Section III, and on page 7 of the FFY 2002 APR, indicated that the number of infants (birth to age one) served was comparable to the national average in 2001 and below the national average in 2002. Guam reported that in 1998 and 1999, the percentage of infants and toddlers served exceeded the national percentage served; in 2000 Guam was comparable to the national percentage served; and was below the national average in 2001 and 2002. On pages 5 and 6 of the Self-Assessment, Section III, GDOE noted that there was a decrease in the number of referrals to GEIS from all primary referral sources and that GEIS lacked a comprehensive plan for public awareness and child find activities. On page 7 of the FFY 2002 APR, Guam reported that among the factors that may have contributed to the decrease in infants and toddlers served, were typhoons in July and December 2002.

On page 10 of the FFY 2001 APR, GDOE reported that it conducted the following public awareness activities during the reporting period: screening fairs, brochures, posters and “give-aways” in a variety of languages, advertisements in magazines, newspapers, radio and television. On page 11 of the FFY 2001 APR, GDOE reported that it would develop and monitor a comprehensive outreach plan to include an annual training calendar and public awareness and child find activities for all primary referral sources to ensure all children are identified, evaluated, and referred for service.

On page 8 of the FFY 2002 APR, as well as Goals 7 and 8 of the Improvement Plan, GDOE described proposed activities to expand public awareness and child find, including: (1) developing a comprehensive education and outreach plan to include annual training and public awareness and child find activities for all primary referral sources and the general public; (2) disseminating information packets to all primary referral sources on an ongoing basis; (3) conducting “Check Me Out” Fairs at least three times a year; and (4) conducting surveys of primary referral sources to include parents and families. In the FFY 2003 APR, OSEP looks forward to reviewing the impact of these strategies in ensuring continued performance and compliance in this area.

### *Family Centered Services*

As reported on page 2, Section IV, of the Self-Assessment, GDOE had mechanisms in place for gathering information from families, starting with the initial referral through the implementation of the IFSP. Of files reviewed in FFY 2000 and FFY 2001, GDOE reported on page 9 of the FFY 2002 APR that 96% of IFSPs reviewed included the family’s needs, priorities, and concerns. On page 9 of the FFY 2002 APR, GDOE reported that, on average, parent surveys conducted in June 2003 indicated satisfaction with the program; however, there was a low response rate (approximately 5%). In the FFY 2002 APR on page 10, as well as Goal 9 of the Improvement Plan, GDOE identified activities to address this cluster, including: (1) revising and facilitating parent surveys and interviewing parents on a biannual basis to gather information, starting in July 2004; (2) providing additional parent training on IFSP development, natural environments and transition planning, starting in June 2004; and (3) conducting monthly reviews of IFSPs to identify family outcomes and determine if supports, services and resources increased families’ capacities, starting in January 2004. OSEP looks forward to reviewing data and information in the FFY 2003 APR demonstrating continued performance and compliance in this area.

### *Early Intervention in Natural Environments*

#### 45-Day Timeline

Part C regulations require that an evaluation and assessment of a child and an initial IFSP meeting be held within 45 days of referral to Part C (34 CFR §§303.321(e)(2), 303.322(e) and 303.342(a)). Page 1, in Section V of the Self-Assessment, identified the following area of noncompliance: evaluation and assessment activities and the IFSP process were not completed within 45 days from the date of referral as required by 34 CFR §303.321(e).

On page 13 of the FFY 2002 APR, GDOE stated that during the reporting period, of the “170 intakes that resulted in a referral to GEIS, 105 resulted in an IFSP, of which 48% were completed within 45 days,” and “the percentage of IFSPs completed in 45 days has been steadily increasing, however, the percentage of intakes pending has increased.” Tracking data, from referral to IFSP, demonstrated that the percentage of IFSPs completed within the 45-day timeline was: 23% in FY 1999; 30% in FY 2000; 26% in FY 2001; and 46% in FY 2002. In the FFY 2002 APR, GEIS also reported an increase in the completion of evaluations and IFSPs due to monthly staffing meetings with service coordinators and the upgrading of the data system to identify reasons for delays. Page 16 of the FFY 2002 APR and Goal 10 of the Improvement Plan identified the following activities to address this issue: (1) reviewing and revising intake/referral procedures; (2) monthly review of IFSPs through service coordinator staff meetings; (3) conducting semi-annual review of IFSPs through compliance visits from GEIS starting July 2004; (4) ensuring parent awareness of the 45-day timeline by January 2004; and (5) implementing biannual parent surveys by July 2004.

As noted above, the FFY 2002 APR provided data on the percentage of IFSPs completed within the 45-day timeline. Therefore, OSEP cannot determine whether GDOE is complying with the Part C regulations that require that evaluations and assessments be completed and an initial IFSP meeting be held within 45 days of referral. In the next APR, Guam must clarify whether it requires that IFSPs be completed at the initial IFSP meeting and if it does, continue to provide data on whether IFSPs are completed within the 45-day timeline, or provide data on whether initial IFSP meetings are held within the 45-day timeline, along with a determination of compliance or noncompliance. If the data demonstrate noncompliance with 34 CFR §§303.321(e)(2), 303.322(e) and 303.342(a), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan.

#### Early Childhood Outcomes

The FFY 2001 and FFY 2002 APRs requested data on the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)). On page 14 of the FFY 2002 APR, GDOE reported 80% of the IFSP files reviewed indicated the children’s functional abilities were sustained or improved; however, no data or analysis were provided. As noted on page 15 of the FFY 2002 APR, GDOE reported that it was unclear what measurements were used to provide evidence of “improved and sustained” functional abilities. On page 17 of the FFY 2002 APR, GDOE reported that it would update its data system to track accomplishments of IFSP outcomes to provide evidence of “improved and sustained” functional abilities. GDOE must provide in its FFY 2003 APR, an explanation of measurements used to demonstrate “improved and sustained” functional abilities, or if those measurements are not sufficient, a plan on how it will collect and report the data (whether through sampling, monitoring, or other methods) to OSEP by the FFY 2004 APR.

### ***Early Childhood Transition***

Part C regulations require, in the case of a child who may be eligible for preschool services under Part B, the lead agency, with the approval of the family, must convene a conference among the lead agency, the family, and the local educational agency at least 90 days before the child is eligible for preschool services, to discuss any services that the child may receive and the lead agency must establish a transition plan. See 34 CFR §303.148(b)(2)(i) and (4). On page 2, Section VI, of the Self-Assessment, GDOE identified the following area of noncompliance: based on the 2002 IFSP file review, only 36% had a transition plan developed 90 days prior to their third birthday. As noted above, there is no requirement in Part C that the transition plan be established 90 days prior to the third birthday. The 90-day requirement applies to convening the transition conference for children potentially eligible under Part B. In the FFY 2002 APR on page 19, GDOE stated that, for the reporting period, all children with IFSPs exiting Part C had a transition plan.

Page 20 of the FFY 2002 APR and Goal 11 of the Improvement Plan, provided activities to ensure compliance with transition requirements, including: (1) developing a system to retrieve data for the APR from December 1 child count data by May 2004; (2) developing a monthly assessment of transition data by August 2004; (3) annual training on transition procedures with Part B by August 2004; and (4) bi-weekly transition meetings with preschool teachers and consulting resource teachers on children 30 months or older, in order to ensure development and implementation of the Individual Education Plan (IEP) by children's third birthdays.

On page 3 of section VI of the Self-Assessment and Goal 11 of the Improvement Plan, GDOE reported that based on interviews with the Preschool Consulting Resource Teachers (CRTs), three of the four CRTs indicated that the transition meeting with the service coordinator prior to the preschool staffing does not occur. The Preschool CRTs meet with the family and service coordinator for the actual IEP eligibility and placement meeting. No data were provided regarding whether transition-planning meetings were held in a timely manner. According to GDOE, the current data system was not capturing the requirement and would be improved to provide relevant data for the next reporting period.

In the next APR, GDOE must provide data and analysis on whether, with the concurrence of the family, a transition conference among the lead agency, the family, and the local educational agency is held at least 90 days before the child is eligible for preschool services as required by 34 CFR §303.148(b)(2)(i), along with a determination of compliance or noncompliance in this area. If the data demonstrate noncompliance, GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan.



***Conclusion***

In the next APR, due April 29, 2005, GDOE must submit the following:

1. Data, along with its analysis and a determination of whether GDOE is complying with 34 CFR §303.501(b) to identify and correct noncompliance through monitoring. GDOE must submit the following information: (1) any revisions made to the Compliance Review Process to ensure that all Part C requirements are met and that enforcement actions are in place to address persistent deficiencies; (2) the areas of noncompliance identified in the Compliance Review Process of the Part C program conducted in April/May 2004 and the status of correction of any identified deficiencies; and (3) the areas of noncompliance identified in the monthly reviews of IFSPs through staffing with service coordinators and procedures that GDOE uses to ensure that identified noncompliance is corrected in a timely manner (i.e., within one year of identification). If the data demonstrate noncompliance with 34 CFR §303.501(b), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan;

2. Data, along with its analysis and determination of whether GDOE is providing prior written notice in accordance with 34 CFR §303.403(c)(1) and (2). If the data demonstrate noncompliance with 34 CFR §303.403(c)(1) and (2), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan;

3. Clarification whether GDOE requires that IFSPs be completed at the initial IFSP meeting, and if it does, continue to provide data on whether IFSPs are completed within the 45-day timeline, or provide data on whether initial IFSP meetings are held within the 45-day timeline, along with a determination of compliance or noncompliance. If the data demonstrate noncompliance with 34 CFR §§303.321(e)(2), 303.322(e) and 303.342(a), GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as soon as possible but no later than one year from the date OSEP accepts the plan;

4. An explanation of measurements used to demonstrate “improved and sustained” functional abilities, or if those measurements are not sufficient, a plan on how it will collect and report the data (whether through sampling, monitoring, or other methods) on early childhood outcomes to OSEP by the FFY 2004 APR; and

5. Data and analysis on whether, with the concurrence of the family, a transition conference among the lead agency, the family, and the local school is held at least 90 days before the child is eligible for preschool services as required by 34 CFR §303.148(b)(2)(i), along with a determination of compliance or noncompliance in this area. If the data demonstrate noncompliance, GDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to achieve compliance as

soon as possible but no later than one year from the date OSEP accepts the plan.

We appreciate your efforts in preparing the Annual Performance Reports and Self-Assessment and look forward to collaborating with GDOE as you continue to improve results for infants and toddlers with disabilities and their families. If you have questions about this letter, or need assistance, please contact Judith Gregorian at (202) 245-7360.

Sincerely,



Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs

cc: Cathy Tydingco  
Part C Coordinator