



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

JUN 10 2008

Honorable Vivian I. Ebbesen-Fludd  
Commissioner  
Virgin Islands Department of Health  
Sugar Estate # 48  
St. Thomas, U.S. Virgin Islands 00802

Dear Commissioner Ebbesen-Fludd:

Thank you for the submission of the Virgin Islands' FFY 2006 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA), as amended in 2004.

The Virgin Islands' submission of its FFY 2006 APR and SPP was not timely. Although each State and Territory that receives funds under Part C of the IDEA was required to submit its APR and revised SPP by February 1, 2008, the Virgin Islands did not submit the required documents to the Office of Special Education Programs (OSEP) until May 29, 2008. Due to the Virgin Islands' late submission of its APR and SPP, we are advising Virgin Islands of the specific technical assistance available to ensure a timely submission of its next year's APR. Under 34 CFR §80.40(b)(1), the Virgin Islands must submit its FFY 2007 APR/SPP by the due date of February 1, 2009.

The Department has determined that, under IDEA sections 616(d) and 642, the Virgin Islands needs assistance in meeting the requirements of Part C of the IDEA. The Department's determination is based on the totality of the Virgin Islands' data and information including the Virgin Islands' FFY 2006 APR and revised SPP, other Territory-reported data, information obtained through on-site verification visits, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Sections 616(d) and 642 of the IDEA in 2008" for further details.

Specific factors affecting OSEP's determination of needs assistance for the Virgin Islands for FFY 2006 include the following: (1) for Indicator 1, the Virgin Islands reported 91% compliance with the timely service provision requirements; and (2) for Indicator 7, the Virgin Islands reported 94.44% compliance with the 45-day timeline requirements. For these reasons, we were unable to determine that the Virgin Islands met requirements under IDEA sections 616(d) and 642. OSEP notes that the Virgin Islands reported high levels of compliance for Indicators 8A, 8B, 8C, and 9. We hope that the Virgin Islands will demonstrate in next year's APR that it meets requirements.

The enclosed table provides OSEP's analysis of the Virgin Islands' FFY 2006 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the Virgin Islands to its targets, improvement activities (timelines and resources) and baseline data in the Virgin Islands' SPP. It also identifies, by indicator, the Virgin Islands' status in meeting its targets, whether the Virgin Islands' data reflect progress or

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slippage, and whether the Virgin Islands corrected noncompliance and provided valid and reliable data.

The Virgin Islands' determination for the FFY 2005 APR also was needs assistance. In accordance with sections 616(e) and 642 of the IDEA, if a State or Territory is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: 1) Advise the Territory of available sources of technical assistance that may help the Territory address the areas in which the Territory needs assistance; 2) Direct the use of Territory-level funds on the area or areas in which the Territory needs assistance; or 3) Identify the Territory as a high-risk grantee and impose special conditions on the Territory's Part C grant award. Pursuant to these requirements, the Secretary is advising the Virgin Islands of available sources of technical assistance related to Indicator 1 (services in a timely manner) and Indicator 7 (45-day timeline) as well as technical assistance to ensure a timely submission of its FFY 2007 APR (including "What States Should Be Doing Now"). 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.rrfcnnetwork.org/>. 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 indicators listed above, the Virgin Islands must report with its FFY 2007 APR submission (due February 1, 2009) on: 1) the technical assistance sources from which the Virgin Islands received assistance and 2) what actions the Virgin Islands took as a result of that technical assistance. The extent to which the Virgin Islands takes advantage of available technical assistance for these indicators may affect the actions we take under sections 616 and 642 should the Virgin Islands not be identified as meets requirements next year. We encourage the Virgin Islands to take advantage of available sources of technical assistance in other areas as well, particularly if the Virgin Islands is reporting low compliance data for an indicator.

As required by sections 616(e)(7) and 642, the Virgin Islands must notify the public that the Secretary of Education has taken the above enforcement action. This notification must be sufficient to notify the public within the Virgin Islands and may include such mechanisms as posting on the agency's website, distribution through the media and distribution through public agencies.

Because the Virgin Islands Department of Health (VIDH) is both the lead agency and the only early intervention service (EIS) program in the Virgin Islands, OSEP expects VIDH to report annually to the public on its one (EIS) program. For further information regarding public reporting requirements that apply to the Virgin Islands, see the SPP/APR Calendar at <http://spp-apr-calendar.rrfcnnetwork.org/>.

Finally, if you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

OSEP is committed to supporting 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. If you have any questions, would like to discuss this further, or want to request technical assistance, please do not hesitate to call Sheryl Parkhurst, your OSEP State Contact, at 202-245-7472.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Knudsen". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

cc: Part C Coordinator