UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Nena S. Nena
Secretary of Health, Education, and Social Affairs
Federated States of Micronesia
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JUL 17 2007

Dear Secretary Nena:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) verification visit to the Federated States of Micronesia (FSM). As indicated in my letter to you of September 6, 2006, OSEP is conducting verification visits to the Freely Associated States (FAS) as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Part B of the Individuals with Disabilities Education Act (IDEA). We conducted our visit to the FSM during the week of October 16, 2006.[1]

The purpose of our verification reviews of the FAS is to determine how the FAS use their general supervision, national-reported data collection, and nationwide assessment systems to assess and improve national performance, and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the national systems work; (2) determine how the FSM collects and uses data to make monitoring decisions; and (3) determine the extent to which the FSM's systems are designed to identify and correct noncompliance.

During the verification visit to the FSM Department of Health, Education, and Social Affairs (FSM or FSM-HESA), OSEP staff met with Mr. Arthur Albert, the Acting Director, of the National Special Education Office (NESO) within FSM-HESA, and FSM-HESA staff members who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of national-reported data; and (3) ensuring participation in, and the reporting of, student performance on nationwide [2] assessments. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) the FSM Annual Performance Plan (APR) for FFY 2002, submitted to OSEP in April 2004; (2) the FSM APR for FFY 2003, submitted in April 2005; (3) the FSM State Performance Plan (SPP), submitted to OSEP in November 2005; (4) the FSM eligibility document submissions under Part B of

[1] Since the verification visit, OSEP reviewed the SPP/FFY 2005 Annual Performance Report from FSM. OSEP responded to that Report in a separate letter dated June 15, 2007.

[2] In this letter, reference to "nationwide", "statewide" or "state" refers to FSM, unless specific reference is made to a State within FSM or to the four states within FSM.

IDEA for FFYs 2002 through 2005; (5) the FSM Guidelines for Including Students with Disabilities in the National Standardized Test and Criteria for Participation in Alternate Assessments (October 2004); and (6) other pertinent data sources. On October 19, 2006, OSEP participated in a meeting with members of the FSM National Advisory Panel that included representatives from the four states in the FSM, to hear their perspectives on the strengths and weaknesses of the FSM's systems for general supervision, data collection, and statewide assessment.

Additionally, OSEP reviewed the FSM's organizational structure that included: (1) FSM-HESA's administrative office; and (2) the structure for administering special education in the four states in FSM, i.e., Pohnpei, Kosrae, Yap, and Chuuk. The four states in the FSM comprise over 100 island communities. The vast distance between the island states and communities creates a challenge for FSM-HESA in implementing its general supervision responsibilities.

As part of its on-site visit to the FSM, OSEP visited two states in the FSM, Pohnpei, where the capital is located, and Chuuk. United States (U.S.) Ambassador Suzanne Hale asked OSEP to visit Chuuk to address concerns regarding the: (1) provision of special education and related services to children with disabilities in Chuuk; and (2) use of funds made available to Chuuk under Part B. OSEP visited Chuuk on October 16 and 17, 2006. Mr. Victor Hobson, Federal Program Liaison from the U.S. Embassy in FSM, and Mr. Arthur Albert, FSM's Acting Director of Special Education, were among the individuals who accompanied OSEP staff to Chuuk.

The information that Mr. Albert and his staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of the FSM's systems for general supervision, data collection and reporting, and statewide assessment. Mr. Albert and his staff were fully engaged and readily available throughout the duration of the visit.

General Supervision

In reviewing the FSM's general supervision system, OSEP collected information regarding a number of elements, including whether the FSM had: (1) systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (2) identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the FSM's ability to identify and correct noncompliance; (3) utilized guidance, technical assistance, follow-up, and -- if necessary -- sanctions, to ensure timely correction of noncompliance; (4) dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) mechanisms in place to compile and integrate data across systems (e.g., 618 national-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

FSM-HESA is the government agency that oversees the development and implementation of national policies and procedures in the areas of education, health,

and social services. The Health Division includes pubic health, mental health, and hospital programs. The Education Division includes general education, vocational education, and special education programs. FSM-HESA has the general supervisory responsibility over all educational programs for children with disabilities in the four states in the FSM.

During the verification visit, staff reported that FSM-HESA has implemented a general supervision system that consists of: (1) conducting on-site compliance monitoring, including fiscal monitoring and child record reviews; (2) preparing monitoring reports that include charts showing findings of noncompliance and required corrective actions; and (3) collecting and reviewing Local Performance Plans (LPP) and quarterly progress reports from each of the four states in the FSM.

Under current FSM procedures, each state in the FSM must submit an annual Part B application to FSM-HESA to apply for Part B funds. Each state's application must include an assurance statement, a detailed budget description of how Part B funds will be used, and a copy of the LPP. As part of the application process, representatives from the four states attend an annual National State Performance Plan Committee (NSPPC) meeting to: (1) review the overall accomplishments of the previous school year; (2) determine priorities FSM-HESA will address during the upcoming year; (3) review and evaluate the effectiveness of the methods used to identify noncompliance at the national and state levels; and (4) evaluate FSM-HESA's general supervision system by identifying any weaknesses, concerns and potential areas for improvement to the system.

In the 2005-2006 school year, FSM-HESA implemented a revised monitoring system to measure continuous improvement in the FSM. The FSM Continuous Improvement Monitoring System includes the review of: (1) state 618 data; (2) on-site monitoring reports; (3) comments from the NSPPC meeting; (4) reports from the states regarding local compliance; and (5) LPPs and quarterly progress reports that are used to verify compliance and performance with the 17 indicators from OSEP's SPP format that are applicable for the FSM. (Note: Indicators 3A, 4B, 9, 10, and 12 in the SPP do not apply to the FSM.)

Under the FSM's revised monitoring system, each state in the FSM must submit quarterly reports to FSM-HESA describing the state's performance, including an explanation of progress and slippage. The quarterly progress reports provide information to FSM-HESA regarding a state's: (1) performance data; (2) fiscal compliance; (3) dispute resolution systems; and (4) other relevant data prior to and after each monitoring visit. FSM-HESA uses the quarterly reports as a mechanism for monitoring progress that each state is making towards correcting areas of noncompliance identified in FSM-HESA's monitoring reports. The release of Part B funds to each state in the FSM is linked to FSM-HESA's review of its quarterly reports.

Monitoring

FSM-HESA reported to OSEP that it conducts annual on-site monitoring/verification visits to the four states in the FSM. During the on-site visit, monitoring teams assess compliance with IDEA Part B requirements and verify the effectiveness of progress made on priorities that align with the FSM's State Performance Plan (SPP) priorities. The monitoring team reviews program data, conducts child record reviews, and interview Steering Committee members, school personnel, special education staff, and parents. The monitoring team uses a "verification checklist" to address the following areas: (1) data collection and reporting; (2) the assessment system; (3) progress in meeting targets described in the LPP; (4) the participation of stakeholders; (5) intra-agency collaboration; and (6) verification of fiscal expenditures. Student records are randomly selected for review. The verification checklist includes questions about private and public agencies (other than the school system) in each of the four states in the FSM. After the visit, the team prepares monitoring/verification reports describing the findings and required corrective actions.

Recent revisions to the FSM's monitoring system included the development of incentives for good performance and sanctions for noncompliance. To address monitoring findings, the FSM developed three levels of incentives to reward good performance and three levels of sanctions to ensure the correction of noncompliance. As a final sanction, the Governor of the state is asked to cooperate with the national government to ensure the correction of identified noncompliance.

During NSPPC meetings, representatives from the four states in the FSM make decisions on common and unique issues related to the special education program, and establish national initiatives and priorities. Monitoring findings are shared and integrated into this decision-making process to establish national priorities.

Identifying Noncompliance

During the verification visit, OSEP reviewed FSM-HESA's monitoring reports. Specific findings of noncompliance from on-site monitoring and required corrective actions were identified in tables attached to narrative reports. However, as noted below under statewide assessment, it appears that the FSM is inconsistent in identifying noncompliance with the requirement that individualized education programs (IEPs) include a statement about any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act (34 CFR §300.320(a)(6)(i)).

Moreover, as discussed more fully below, OSEP found that FSM-HESA's monitoring procedures were not effective in identifying all areas of noncompliance related to the provision of special education and related services in Chuuk. OSEP encourages the FSM to examine its general supervision system including their monitoring protocols to determine how they address the statutory and regulatory requirements related to each

monitoring priority and indicator in the State Performance Plan (see the Related Requirements Document attached to OSEP's December 14, 2006 Memorandum).

Areas of Noncompliance in Chuuk Identified by FSM-HESA

As a result of its September 11-12, 2006 focused monitoring of Chuuk, FSM-HESA has required the correction of the following identified noncompliance by September 19, 2007:

(1) all children with disabilities who are in need of special education and related services, are identified, located, evaluated, and provided appropriate placements based on their special education needs as required at 34 CFR §300.111. This finding is consistent with what OSEP found, e.g., long delays between referrals for evaluation and conducting the evaluation;
(2) to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and special education classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (34 CFR §300.114);[3] and
(3) a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services as required by 34 CFR §300.115, and ensuring that placement decisions are made pursuant to 34 CFR §300.116.

In its FFY 2006 APR due February 1, 2008, FSM-HESA must provide OSEP with documentation of the timely correction of the above-identified noncompliance in Chuuk.

Areas of Noncompliance in Chuuk not Identified by FSM-HESA

During OSEP's visit to Chuuk's special education office, one elementary school, (Iras Elementary),[4] and Chuuk's high school, OSEP found that due to a lack of available staff, needed transportation, and coordination between Chuuk's Education and Health Divisions, the state did not consistently ensure that a free appropriate public education (FAPE) was available to all children with disabilities as required by 34 CFR §300.101(a).

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[3] In Table A of OSEP's March 2006 response to FSM's State Performance Plan (SPP), OSEP noted that the separate placements for children with disabilities in the preschool center at Chuuk strongly suggested noncompliance with the Part B least restrictive environment requirements at 34 CFR §§300.114-300.120. OSEP required FSM-HESA to report on this issue in its FFY 2005 APR. In addition to the information received during the verification visit, OSEP reviewed FSM's FFY 2005 APR and responded in a separate letter dated June 15, 2007.

[4] In FSM, the elementary grades are classified as 1-8.

In interviews with OSEP, the special education director, special education teachers and related services staff stated that in Iras Elementary School (with a total enrollment of 829 students) there were no children receiving special education and related services other than some related services provided to homebound children (as discussed below). Chuuk's special education director told OSEP that no special education staff were available to provide the needed special education and related services to children with disabilities who had IEPs in these grades. Further, the special education director was unable to report the number of children with disabilities at these grade levels who had IEPs in effect at the time of OSEP's visit. Staff informed OSEP that special education and related services would be available for these children when they begin high school. At the time of OSEP's visit, there were only seven children with disabilities receiving special education and related services who attended the high school.

Furthermore, OSEP noted during the review of files of children with disabilities that the IEPs for children receiving homebound instruction did not include a statement of the child's academic goals as required by 34 CFR §300.320(a)(2)(i). Staff reported that academic services were not always included in the IEPs as required by 34 CFR §300. 320(a)(4), and that there were no homebound teachers to provide the needed academic services as required by 34 CFR §§300.101(a), 300.156, and 300.323(c)(2). In addition, the related services staff reported that homebound children were not provided FAPE as required by 34 CFR §§300.17, 300.101, 300.112, and 300.323(c)(2). Rather, the related services staff reported that they provided services 90 minutes a week to homebound children, regardless of need, and that the only services they provided were physical, occupational, and/or speech therapy. In cases where the related services staff did not have transportation available to reach the children's homes, compensatory time was not provided to make up for missed services. Staff also told OSEP that transportation services required by 34 CFR §§300.17; 300.34(a), 300.34(c)(16); and 300.101(a) were not consistently available to children with disabilities due to a lack of vehicle maintenance.

OSEP found that IEPs were not consistently developed for children with disabilities in accordance with the requirements at 34 CFR §§300.320 through 300.328. File reviews conducted by OSEP showed that IEPs were incomplete, and/or developed without the inclusion of the participants required by 34 CFR §300.321. Special education staff interviewed confirmed that IEPs for homebound students did not always include all special education and related services to address their needs as required by 34 CFR §300.320(a)(4).

During interviews, OSEP learned that some IEPs were developed prior to a complete evaluation of the child that is required by 34 CFR §§300.301 through 300.311. FSM-HESA made similar findings related to the development of IEPs in the Iras Elementary School preschool center during its on-site monitoring visits in Chuuk on September 11 and 12, 2006. The required corrective actions were listed in Table A of FSM-HESA's September 19 monitoring report.

Consistent with the information noted above, members of the Chuuk Advisory Panel expressed concerns that not all children with disabilities received the special education and related services that they needed. Panel members from Maternal and Child Health reported that the lack of coordination between the Health and Education Divisions causes a delay in the identification and evaluation of children with disabilities. The Health Division is responsible for conducting screening activities and referring children with suspected disabilities to the Education Division. The Education Division also conducts screening activities. Because the divisions have separate databases, screenings may be duplicated thus delaying the provision of special education and related services. The Chuuk advisory panel members and special education staff stated that: (1) they needed more training about the Part B requirements; and (2) Chuuk needed to clarify the roles and responsibilities between the Education and Health Divisions regarding the identification of children with disabilities. Staff and panel members reported that these concerns would be addressed in the interagency agreement between the two agencies. Interagency agreements are further discussed below.

FSM must provide with its FFY 2006 APR due February 1, 2008, a report demonstrating compliance in the following areas, or a report of FSM-HESA's progress in correcting the identified noncompliance in the following areas in Chuuk. In addition, FSM-HESA must provide OSEP with data and information demonstrating correction of the following areas of noncompliance in Chuuk within one year of the date of this letter:

(1) Chuuk's implementation of FSM-HESA's procedures for providing a free appropriate public education to all children with disabilities as required by 34 CFR §300.101(a);
(2) children with disabilities who are homebound have an IEP in accordance with the requirements at 34 CFR §§300.320 through 300.328, including that IEPs include a statement of the child's academic goals as required by 34 CFR §300.320(a)(2)(i) and a statement of the special education and related services to be provided to the child as required by 34 CFR §300.320(a)(4);
(3) there are sufficient homebound teachers to provide needed academic services as required by 34 CFR §§300.101(a), 300.323(c) and 300.156; and
(4) transportation services are provided to all children with disabilities who require such services to benefit from special education as required by 34 CFR §§300.17; 300.34(a); 300.34(c)(16) and 300.101(a).

In addition, in the FFY 2006 APR due February 1, 2008, the FSM must include documentation that it has reviewed with special education staff in Chuuk all existing IEPs to ensure that they are developed in accordance with Part B requirements at 34 CFR §§300.320 through 300.328 and that evaluations have been completed in accordance with the requirements at 34 CFR §§300.301 through 300.311. The report should document the number of IEPs reviewed, the results of the review, and whether any changes were made to the IEPs as a result of the reviews. The report should also include the number of evaluations that were reviewed, the results of the review, and what steps FSM took as a result of the reviews.

Timely Correction of Noncompliance

FSM-HESA's monitoring reports included timelines for correcting noncompliance as soon as possible, but not later than one year from the date when FSM-HESA identified noncompliance. However, OSEP found that FSM-HESA could not consistently provide documentation to demonstrate that identified noncompliance was corrected as soon as possible but not later than one year after identification, as required by 20 U.S.C. 1416(a)(3)(B) and 20 U.S.C. §1232d(b)(3)(E). To ensure that identified noncompliance is corrected within one year of identification, FSM-HESA's special education staff stated that they will meet on a quarterly basis to review quarterly monitoring reports and monitor progress in correcting the identified noncompliance. FSM-HESA also plans to review each state's LPP, since LPPs are updated annually for progress made on the priorities that align with the 17 indicators in the SPP.

With the FFY 2006 APR due February 1, 2008, FSM must submit to OSEP: (1) a description of the monitoring procedures that were used to monitor compliance with Part B of the Act, including 34 CFR §300.320(a)(6)(i), as well as other requirements related to assessments included in the Related Requirements document attached to the SPP/APR package; and (2) a report demonstrating that FSM is correcting noncompliance as soon as possible, but not later than one year from the date that FSM identifies noncompliance.

Training for Special Education and Related Services Staff in Chuuk

To meet the requirements at 34 CFR §300.156, the FSM is responsible for ensuring that teachers, related services personnel, paraprofessionals, and other personnel serving children with disabilities under Part B are appropriately and adequately prepared and trained and have the content knowledge and skills required to serve children with disabilities. Special education teachers and related services staff in Chuuk told OSEP that they need training in the following areas in order to improve services to children with disabilities: (1) their responsibilities under the Part B program; (2) the requirements for developing IEPs, including the special education and related services that must be provided to children with disabilities under Part B; (3) Part B child find and assessment requirements; (4) the responsibilities of the national and state advisory panels; (5) how to work with children with disabilities when specific issues arise, including behavioral issues; (6) the mediation process; and (7) the FSM's monitoring procedures. In the FFY 2006 APR due February 1, 2008, FSM-HESA must provide, to OSEP, the dates and topics of training provided to special education and related services staff in Chuuk.

Fiscal Compliance

The U.S. Ambassador to the FSM alerted FSM-HESA to concerns about the procurement procedures used in Chuuk. FSM-HESA investigated the U.S. Ambassador's allegation concerning an attempted bulk procurement of school supplies using special education funding that was processed without formal bidding by using emergency procurement procedures. FSM-HESA stopped this procurement action

before it was completed. However, this incident raised concerns about the general implementation of appropriate procurement procedures in Chuuk with respect to the use of Part B funds. This investigation also raised questions regarding the FSM's system for reimbursement of expenses incurred by Chuuk.

The related services staff interviewed by OSEP reported waiting up to three months for Part B reimbursements of expenses incurred by Chuuk to pay for timely special education and related services for children with disabilities. This had a negative impact on the provision of special education and related services for children with disabilities because funds were not immediately available to pay these costs. For example, as noted above, transportation services for students with disabilities to attend school and for staff to provide services to homebound children were not always available. Related services staff reported that this was due to lack of funds to pay drivers, maintain vehicles, and/or purchase fuel.

FSM-HESA must establish written procedures to ensure that Chuuk complies with FSM national procurement requirements and Federal procurement requirements applicable to the Part B program, including procurement requirements in OMB Circular A-87, OMB Circular A-102 and 34 CFR Part 80, Subpart C. The procedures should include how Chuuk will maintain: (1) separate accounting records for special education expenses; (2) all documents related to procurements, and (3) a paper trail to justify expenses paid with Part B funds (including reimbursements for expenses related to the provision of special education and related services for children with disabilities). Within 90 days from the date of this letter, FSM-HESA must provide a copy of this plan to OSEP.

In addition, within 90 days from the date of this letter, FSM-HESA must also provide OSEP with: (1) procedures for auditing the use of Part B funds in Chuuk; (2) proposed timelines for FSM-HESA to audit the use of Part B funds in Chuuk; (3) a plan for providing training to staff in Chuuk about appropriate accounting and procurement procedures; and (4) data and information regarding the progress of the fiscal management of Part B funds in Chuuk, including the results of on-site fiscal audits.

With the FFY 2006 APR due February 1, 2008, FSM-HESA must submit a report on its progress in implementing the above areas. In addition, no later than one year from the date of this letter, FSM-HESA must submit to OSEP a final report demonstrating implementation of FSM's plan including updated data and information regarding the fiscal management of Part B funds in Chuuk, and the results of on-site and off-site fiscal audits of Chuuk.

Written Complaints, Mediation, and Due Process Hearings

FSM-HESA provided data to OSEP in its SPP showing that there have been no written complaints, requests for mediation, or due process hearings under the Part B program since the inception of the program. Prior to the verification visit, OSEP inquired about the availability of information for parents regarding written complaints, mediation, and due process hearings. FSM-HESA responded in writing to an inquiry from OSEP, that

the parents' rights notice that addresses written complaints, mediation, and due process hearings is available to parents in the various languages spoken in each of the states, and that training is provided during the annual Parent/Consumer Conference.

During the verification visit, FSM-HESA informed OSEP that: 1) service providers and special education staff who participate in IEP meetings are responsible for informing parents about their right to file written complaints and their right to request mediation or a due process hearing; and (2) the FSM is in the process of developing draft procedures regarding written complaints, mediation, and due process hearings that will either be incorporated into the *Special Education Procedural Manual* or published as a separate document. OSEP notes that the FSM is responsible for ensuring that each public agency within the FSM implements procedural safeguards that meet the requirements of 34 CFR §§300.500 through 300.536, particularly the requirement in 34 CFR §300.504 regarding providing the parents a copy of the procedural safeguards at least once a year, and at other specified times. OSEP recommends that the FSM monitor the states within the FSM for compliance with this requirement.

With the next APR due February 1, 2008, the FSM must provide OSEP with a copy of its written procedures regarding written complaints, mediation, and due process hearings that are consistent with the requirements of 34 CFR §§300.500 through 300.536, and data and information regarding the procedures the FSM has for ensuring that parents are provided these documents.

Interagency Agreements

In 1996, a national meeting was held to establish a "cooperative interagency agreement" between the Education Division and Health Division for the mutual goal of developing and implementing services for the early identification of all eligible children with special needs. The interagency agreement was signed by the FSM-HESA Secretary of Education and Secretary of Health Services, and endorsed by representatives from both the Education Division and the Health Division from each state in the FSM. Each state in the FSM has a similar collaborative agreement between the Education Division and the Health Division.

During interviews with Chuuk's special education staff and Advisory Panel members, OSEP noted concerns about the effectiveness of FSM-HESA's interagency agreements between the Education Division and Health Divisions. As noted above, individuals who were interviewed stated that evaluations of children suspected of having disabilities are delayed beyond the timeframe contained in 34 CFR §300.301(c)(1) because the Health Division that conducts screening activities does not make timely referrals to the Education Division. FSM-HESA staff reported to OSEP that the FSM would develop and implement a policy to correct this noncompliance and stated that once a child is identified as needing an evaluation, staff contacts will be assigned from both the Health Division and the Education Division to expedite the evaluation process. In addition, FSM-HESA must review the interagency agreements between the Health Division and

the Education Division at the national and state levels, and make any needed revisions in order to ensure that the procedures for referrals do not delay evaluations.

With the FFY 2006 APR due February 1, 2008, FSM-HESA must provide OSEP with data and information about its progress in reviewing the interagency agreements between the Education Division and the Health Division to ensure compliance with the requirements at 34 CFR §300.154(a)-(c), including information regarding whether the interagency agreements include procedures for timely referrals of children with suspected disabilities for evaluation to comply with 34 CFR §300.301(c)(1). If the FSM-HESA revised the interagency agreements or determined that the interagency agreements must be revised, FSM-HESA must provide revised interagency agreements to OSEP no later than one year from the date of this letter.

Collection of data under section 618 of the IDEA

In reviewing the FSM's system for data collection and reporting under section 618 of the IDEA, OSEP collected information regarding a number of elements, including whether the FSM: (1) provided clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implemented procedures to determine whether the individuals who enter and report data at the local level do so accurately and in a manner that is consistent with the FSM's procedures, OSEP guidance, and section 618; (3) implemented procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) addressed barriers to the implementation of procedures for data collection and reporting data under section 618 of the IDEA.

At the time of the verification visit, FSM-HESA used the Pacific Education Data Management System (PEDMS) to collect and report required under section 618 of the IDEA regarding graduation, dropout and suspension/expulsion in all of the required reporting fields. Coordinators from the four states of the FSM were instructed to work with general education staff to collect data compiled under PEDMS. PEDMS is a Microsoft Excel database. Although PEDMS was used to collect graduation, dropout, and suspension/ expulsion data, it did not have all the required fields for compiling data needed for Part B reporting.

The FSM data specialist and other knowledgeable staff reported to OSEP that the FSM collects data that are not available from PEDMS (i.e., child count, placement, and personnel data in all the required reporting fields) from case managers or school administrators in each state in the FSM. Those case managers or school administrators collect the information from IEPs, and submit the data to FSM-HESA. FSM-HESA staff review and verify the data, and coordinate with staff in each of the four states of the FSM to provide any necessary explanations or revisions. Data coordinators match IEPs with updated class lists to verify that child count data is unduplicated. According to the FSM personnel interviewed, data entry specialists in all four states apply OSEP instructions and definitions for data collection and reporting.

Although it is not yet fully operational, FSM-HESA is developing a web-based Student Information Tracking System (SITS) that is a relational database designed to track special education students through the entire cycle of special education services. SITS uses the Microsoft Access database. FSM-HESA reported that when SITS is fully operational in December 2006, the FSM would develop a procedural manual with a data dictionary and train data specialists on the SITS database.

FSM-HESA stated that it would provide training on the SITS database when it is fully implemented to inform staff who collect data and prepare data reports about the new system. The FSM must provide OSEP data and information about its progress in implementing the SITS system, and provide OSEP with information about training that is provided for staff about the revised data system in the FFY 2006 APR due February 1, 2008.

FSM-HESA staff reported that they focused on collecting and reporting accurate data during on-site monitoring visits and applied sanctions if the monitoring team identified noncompliance in the area of data collection. As a result of this effort, findings showed an increase in the consistency of accurate local reports. For example, when FSM-HESA staff had concerns about the accuracy of data reported in the "autism" category, training was provided to address the concern (e.g., an increase in the number of children reported under the category of "autism" was followed by nationwide training about the identification and evaluation of children with autism).

FSM-HESA staff also reported that the coordination of data collection and reporting efforts between special education and regular education had improved. Timelines for special education and regular education data collections have been aligned so that Part B data can be submitted in a timely manner. FSM-HESA staff reported to OSEP that they anticipate that the SITS technology will improve the collection of accurate and timely data from the four states in the FSM.

FSM-HESA staff anticipated that the implementation of SITS would further advance the FSM's capacity to utilize data as a quality assurance measure to ensure educational equity and excellence. OSEP believes that SITS is designed in a manner that is consistent with the requirements under section 618 of the IDEA, and has mechanisms in place to compile and integrate data across the four states in the FSM to identify systemic issues and problems. However, OSEP notes that personnel in Chuuk reported that they were unable to provide documentation on the number of children with disabilities. In the FFY 2006 APR due February 1, 2008, the FSM must provide OSEP documentation that FSM is accurately identifying and reporting data on children with disabilities in Chuuk.

Statewide Assessments

In reviewing the FSM's system for statewide assessment, OSEP collected information regarding a number of elements, including whether FSM-HESA had: (1) established procedures for nationwide assessment that meet the participation, alternate assessment,

and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provided clear guidance and training to public agencies regarding those procedures and requirements; and (3) monitored local implementation of those procedures and requirements. The FSM does not report publicly on the performance of children with disabilities because of confidentiality issues.

Part B of the IDEA requires that the FSM: (1) include all children with disabilities in all general and districtwide assessment programs, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEPs; (2) have guidelines for the provision of appropriate accommodations; (3) develop and implement guidelines for participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments with accommodations as indicated in their IEPs; and (4) make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children. 34 CFR §300.160.

With respect to the first requirement – that all children with disabilities participate in all statewide and districtwide assessments, the FSM informed OSEP, both in writing prior to the verification visit, and through interviews during the verification visit, that the FSM conducts its nationwide assessments, the National Standardized Test (NST), in the areas of language arts and math for children with and without disabilities in grades 6, 8, and 10.[5] However, in its SPP, the FSM reported that the level of participation by children with disabilities in statewide assessments was 43% during the 2004-2005 school year, and did not provide baseline data for participation in the alternate assessment. OSEP's March 2006 letter required the FSM to review, and if necessary, revise, its improvement strategies to ensure that they will enable the FSM to demonstrate correction of this noncompliance in the FFY 2005 APR. OSEP reviewed the relevant portions of FSM's FFY 2005 APR and responded by letter dated June 15, 2007.

With respect to whether the FSM has guidelines regarding the provision of appropriate accommodations for disabled students for assessment, OSEP is unable to conclude at this time that FSM is in compliance with 34 CFR §300.160(b). The FSM Guidelines for Including Students with Disabilities in the National Standardized Test and Criteria for Participation in Alternate Assessments has information about providing appropriate modifications and accommodations for children with disabilities. However, during interviews in Chuuk, special education staff reported that they did not always have access to the assessment guidelines, and that they needed more training about providing appropriate accommodations. FSM-HESA staff also stated that special education staff in the four states of the FSM needed more training about accommodations for nationwide assessments. FSM-HESA must ensure that: (1) the assessment guidelines

[5] FSM does not participate in the Elementary and Secondary Education Act of 1965 (ESEA, as amended the No Child Left Behind Act. Accordingly, Indicator 3A in the SPP does not apply to FSM and is not addressed in this letter.

are available to special education staff; (2) a child's IEP includes a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on nationwide assessments; and (3) the requirements at 34 CFR §300.323(d)(2)(ii) are implemented by providing the accommodations listed in an IEP for nationwide assessments. OSEP reviewed the relevant portions of FSM's FFY 2005 APR and responded by letter dated June 15, 2007.

Regarding whether the FSM has developed and implemented guidelines for participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments with accommodations as indicated in their IEPs, the FSM did not provide baseline data regarding the participation of children with disabilities who needed alternate assessments in its SPP. In Table B in OSEP's response to the FSM's SPP, under Indicator 3, OSEP required FSM-HESA to review and if necessary revise its improvement activities in order to provide baseline data regarding participation and performance of children with disabilities on alternate assessments. In interviews with OSEP during the verification visit, FSM-HESA staff reported that the FSM had planned to implement alternate assessments in May 2006, but that staff needed more training on alternate assessments. The FSM plans to fully implement the alternate assessment requirements in the 2007-2008 school year. An institute on nationwide assessments for the Pacific entities was conducted in January 2007 in Guam, and representatives from the four states of the FSM were scheduled to attend the institute. The Guam Center for Excellence and Developmental Disabilities Education Research and Service (CEDDERS) scheduled a meeting in FSM to determine whether alternate assessment requirements can be fully implemented in FSM by May 2007. Following the institute, Guam CEDDERS will also develop an evaluation toolkit that will include methods to monitor the implementation of the Part B alternate assessments requirements. OSEP reviewed the relevant portions of FSM's FFY 2005 APR and responded by letter dated June 15, 2007.

In the FSM, school is compulsory until the 8th grade, except in Pohnpei where compulsory education extends to age 16. Participation in high school is permissive and students without disabilities are required to pass an entrance test. All children with IEPs continue to receive special education and related services without passing the high school entrance examination. Assessment specialists interviewed during the verification visit reported to OSEP that since the 8th grade test is used as an admission test for students without disabilities, there is not an alternate assessment for the eighth grade test. Accordingly, OSEP does not deem the 8th grade entrance test as a "statewide or districtwide assessment," and failure to include children with disabilities in this test, or to provide an alternate assessment for this test is not inconsistent with the IDEA.

The FSM does not report publicly the results of statewide assessments for either disabled or nondisabled students. Because the FSM does not participate in NCLB, it is not required to publicly report the results of assessments. Moreover, since the FSM does not publicly report on the results of assessments of nondisabled students, it is not required to publicly report the results of assessments of disabled students. 34 CFR

§300.160(f). However, OSEP requires the collection and inclusion of data in the SPP and in the APRs regarding the participation rate of children with IEPs in regular assessments with no accommodations; regular assessments with accommodations; alternate assessments against grade level standards and alternate assessments against alternate achievement standards. The FSM must also provide data on the proficiency rate for children with IEPs against grade level standards and alternate achievement standards, unless doing so would compromise the confidentiality of disabled children.

The FSM assessment specialists reported that proficiency levels that had not been available for the November 2005 SPP were now available for nationwide assessments. FSM-HESA provided training on proficiency measurements to staff in the four states in the FSM in May 2006. (i.e., 80-100 was mastery, 60-79 was significant improvement, and 0-59 was not proficient). Special education and regular education staff were included in training sessions. During the verification visit, FSM-HESA staff indicated that FSM plans to revise its proficiency measurements by shifting to four levels of proficiency that are consistent with the Federal criteria. OSEP reviewed the relevant portions of FSM's FFY 2005 APR and responded by letter dated June 15, 2007.

Conclusion

In its FFY 2006 APR due February 1, 2008, FSM-HESA must provide OSEP with documentation of the correction of the following identified noncompliance in Chuuk and demonstrate that the correction was timely (i.e., corrections were made by September 19, 2007):

(1) all children with disabilities who are in need of special education and related services, are identified, located, evaluated, and provided appropriate placements based on their special education needs as required at 34 CFR §300.111;
(2) to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and special education classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (34 CFR §300.114); and
(3) a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services as required by 34 CFR §300.115, and ensuring that placement decisions are made pursuant to 34 CFR §300.116.

FSM must provide with its FFY 2006 APR due February 1, 2008, a report demonstrating compliance in the following areas or a report of FSM-HESA's progress in correcting identified noncompliance in Chuuk. In addition, FSM-HESA must provide OSEP with data and information demonstrating correction of the following areas of noncompliance in Chuuk within one year of the date of this letter:

(1) Chuuk's implementation of FSM's procedures for providing a free appropriate public education to all children with disabilities as required by 34 CFR §300.101(a);
(2) children with disabilities who are homebound have an IEP in accordance with the requirements at 34 CFR §§300.320 through 300.328, including that IEPs include a statement of the child's academic goals as required by 34 CFR §300.320(a)(2)(i) and a statement of the special education and related services to be provided to the child as required by 34 CFR §300.320(a)(4);
(3) there are sufficient homebound teachers to provide needed academic services as required by 34 CFR §§300.101(a), 300.323(c) and 300.156; and
(4) transportation services are provided to all children with disabilities who require such services to benefit from special education as required by 34 CFR §§300.17; 300.34(a) and 300.34(c)(16); and 300.101(a).

In the FFY 2006 APR due February 1, 2008, the FSM must include documentation that it has reviewed with special education staff in Chuuk all existing IEPs to ensure that they are developed in accordance with Part B requirements at 34 CFR §§300.320 through 300.328 and that evaluations have been completed in accordance with the requirements at 34 CFR §§300.301 through 300.311. The report should document the number of IEPs reviewed, the results of the review, and whether any changes were made to the IEPs as a result of the reviews. The report should also include the number of evaluations that were reviewed, the results of the review, and what steps FSM took as a result of the reviews.

With the FFY 2006 APR due February 1, 2008, FSM must submit to OSEP:

(1) a description of the monitoring procedures that were used to monitor compliance with Part B of the Act, including 34 CFR §300.320(a)(6)(i), as well as other requirements related to assessments included in the Related Requirements document attached to the SPP/APR package;
(2) a report demonstrating that FSM is correcting noncompliance as soon as possible, but not later than one year from the date that FSM identifies noncompliance;
(3) the dates and topics of training provided to special education and related services staff in Chuuk;
(4) data and information about it progress in reviewing the interagency agreements between the Education Division and the Health Division to ensure compliance with the requirements at 34 CFR §300.154(a)-(c), including information regarding whether the interagency agreements include procedures for timely referrals of children with suspected disabilities for evaluation to comply with 34 CFR §§300.301(c)(1). If FSM-HESA revised the interagency agreements or determined that the interagency agreemens must be revised, FSM-HESA must provide revised interagency agreements to OSEP no later than one year from the date of this letter;
(5) data and information about its progress in implementing the SITS system and training staff about the revised data system;

(6) documentation that FSM is accurately identifying and reporting data on children with disabilities in Chuuk; and
(7) a copy of its written procedures regarding written complaints, mediation, and due process hearings that are consistent with the requirements at 34 CFR §§300.500 through 300.536, and data and information regarding the procedures the FSM has for ensuring that parents are provided these documents.

Within 90 days of the date of this letter, the FSM must provide to OSEP a copy of the following:

(1) written procedures to ensure that Chuuk complies with FSM national procurement requirements and Federal procurement requirements applicable to the Part B program, including procurement requirements in OMB Circular A-87, OMB Circular A-102 and 34 CFR Part 80, Subpart C. The procedures should include how Chuuk will maintain: (a) separate accounting records for special education expenses; (b) all documents related to procurements, and (c) a paper trail to justify expenses paid with Part B funds (including reimbursements for expenses related to the provision of special education and related services for children with disabilities);
(2) procedures for auditing the use of Part B funds in Chuuk;
(3) proposed timelines for FSM-HESA to audit the use of Part B funds in Chuuk;
(4) a plan for providing training to staff in Chuuk about appropriate accounting and procurement procedures; and
(5) data and information regarding the progress of the fiscal management of Part B funds in Chuuk, including the results of on-site fiscal audits.

With the FFY 2006 APR due February 1, 2008, FSM-HESA must submit a report on its progress in implementing the above areas. In addition, no later than one year from the date of this letter, FSM-HESA must submit to OSEP a final report demonstrating implementation of FSM's plan, including updated data and information regarding the fiscal management of Part B funds in Chuuk, and the results of on-site and off-site fiscal audits of Chuuk.

We appreciate the cooperation and assistance provided by your staff and special education staff in the FSM during our visit. As noted above, we request that you keep OSEP informed about progress in ensuring that requirements discussed in this letter are

implemented in the FSM. We look forward to collaborating with FSM-HESA as you continue to work to improve results for children with disabilities and their families.

Sincerely,

Patty J. Guard

Patty J. Guard
Acting Director
Office of Special Education Programs

cc: Arthur Albert
Director of Special Education