



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

Honorable Lui Tuitele  
Director of Education  
American Samoa Department of Education  
P.O. Box 186  
Pago Pago, American Samoa 96799

NOV 23 2005

Dear Director Tuitele:

The purpose of this letter is to respond to American Samoa's March 30, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part B for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that American Samoa made during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and territories, and result in high-quality information across States and territories. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

American Samoa's APR should reflect the collection, analysis, and reporting of relevant data, and indicate specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to American Samoa's FFY 2003 APR and where appropriate, findings from OSEP's data collection activities during the February 2005 visit to American Samoa. OSEP has set out its comments, analysis, and determinations by cluster area.

***Background***

During the week of February 28, 2005, OSEP conducted a visit to American Samoa to verify the effectiveness of its systems for general supervision, the collection of data under §618 of IDEA, and statewide assessment, and also to collect data to assess compliance in the following areas: General Supervision, Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment and Secondary Transition. OSEP collected building-level data by reviewing 39 student files (11 for children aged 16 or older) with the special education teachers and related services providers responsible for those files; interviewing regular education teachers, administrators, parents, and central office staff; and visiting schools. The results of OSEP's verification activities are summarized in a separate letter. The results of OSEP's data collection activities are addressed under the relevant sections of this letter.

OSEP's November 16, 2004 FFY 2002 APR response letter required American Samoa to:

1. Within 60 days of November 16, 2004, submit a report including a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of noncompliance, within a reasonable period of time but not to exceed one

year from the date when OSEP accepts the plan, in the following areas:

- (a) 34 CFR §300.300, the provision of a free appropriate public education (FAPE), despite staff shortages, and progress in hiring and training sufficient, qualified personnel to provide special education and related services for children with disabilities, in accordance with the requirements of their individualized education programs (IEPs);
- (b) translation of the Parents' Rights Notice into the native languages of parents of children with disabilities, unless it is clearly not feasible to do so (34 CFR §300.503(c)(2)); and
- (c) inviting students with disabilities to attend their IEP meeting if the purpose of the meeting will be the consideration of transition service needs or needed transition services (34 CFR §300.344(b)(1)-(2)).

American Samoa submitted the report on January 18, 2005. OSEP responded to this submission on March 7, 2005. Further comment on this submission will be included in the appropriate sections below.

- (2) In the FFY 2003 APR, provide data and analysis along with a determination of compliance or noncompliance, in the following areas:
  - (a) monitoring data and procedures for correcting any identified noncompliance in a timely manner in the following areas: (i) referrals, pre-placement evaluations, and eligibility/IEP meetings are completed within 60 days of parent consent for evaluation (§614(a)(1)(C)); (ii) IEPs are reviewed at least annually (34 CFR §300.343(c)(1)); (iii) special education services and needed related services are provided for children with disabilities (34 CFR §300.300); and (iv) parents are informed and aware of the IDEA requirements regarding suspensions, expulsions, mediation, and due process procedures (34 CFR §300.504);
  - (b) the process for handling formal complaints and informal concerns, describing which complaints and concerns are recorded in the complaint log, and describing how parents are informed about complaint procedures (34 CFR §300.504);
  - (c) all children served under Part C and who are eligible for Part B services have an IEP developed and implemented by their third birthdays, including strategies for sharing child count data between Part C and Part B programs, and for transferring information about at-risk children (34 CFR §300.132);
  - (d) the system used for collecting and reporting data, including monitoring data, to measure parent involvement and a determination of its performance and compliance in this area;
  - (e) compliance data, including monitoring information, related to the

requirements at 34 CFR §§300.347(a)(5) and reporting on for both regular and alternate assessments separately for reading and math performance pursuant to 34 CFR §300.138;

- (f) evaluation and determination of a child's eligibility for Part B services, including: (i) the number and dates of referrals; (ii) the corresponding dates when evaluations were completed; and (iii) an analysis of the availability of personnel to conduct evaluations;
- (g) strategies for improving the graduation and drop-out rates;
- (h) information describing how the American Samoa determines if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities, in accordance with the instructions in the APR and 34 CFR §300.146. Since American Samoa does not have local educational agencies (LEAs) to compare with one another, it must either compare the suspension and expulsion rates between children with and without disabilities, or the rates for children with disabilities across consortia;
- (i) progress toward compliance with the requirement in 34 CFR §300.344(b) that the public agency invite a student with a disability of any age to attend his or her IEP meeting if the purpose of the meeting will be consideration of transition service needs or needed transition services, and the requirements at 34 CFR §300.347(b) that IEPs for students beginning at age 14 (or younger if determined appropriate by the IEP team) include a statement of transition service needs under the applicable components of the IEP and a statement of needed transition services, beginning at age 16, and provide to OSEP with a report that includes data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline; and
- (j) a plan to ensure correction of noncompliance as soon as possible, to ensure that outside agencies, likely to be responsible for providing and paying for transition services, and parents are invited to IEP meetings when a purpose is the discussion of secondary transition (34 CFR §300.343(a) and 300.344(b)(3)).

### ***General Supervision***

#### **Identification and timely correction of noncompliance**

OSEP's November 2004 letter required the American Samoa Department of Education (ASDOE) to provide data and procedures, along with a determination of compliance or noncompliance, in meeting the requirements at 20 U.S.C. 1232(b)(3) and 34 CFR §300.600. ASDOE was required to provide monitoring data and procedures for correcting identified noncompliance in a timely manner (i.e., within one year of identification), to demonstrate that American Samoa monitors in the following areas: (1) referrals, pre-placement evaluations, and eligibility/IEP meetings are completed within 60 days of parent consent for evaluation; (2) reviewing of IEPs at least annually; (3) the provision of special education services and needed related services for children with disabilities, in accordance with an IEP; and (4) ensuring that parents are informed and aware of the IDEA requirements regarding suspensions, expulsions, mediation, and due process procedures.

As Attachments to the FFY 2003 APR, ASDOE provided information on its monitoring process as well as a monitoring schedule running from fall 2005 to fall of 2007. The attachments included questionnaires to be used during interviews with parents, teachers, and administrators to obtain the information described in items (1) through (4) of the preceding paragraph, and ASDOE's monitoring procedures for correcting any identified noncompliance in a timely manner. Examples of ASDOE's monitoring procedures include a requirement that the school has 60 days from receipt of the report to submit a corrective action plan addressing areas of noncompliance, and 30 days to implement corrective actions after submission. Also, according to the procedures, "the SEA will make a site visit to the school to ensure the corrective actions as documented are in place." The procedures did not specify a timeline for SEA verification activities nor did they include a system of sanctions or consequences in response to persistent noncompliance, which OSEP confirmed during the February 2005 visit. In the State Performance Plan (SPP), due December 2, 2005, or within 60 days from the date of this letter, ASDOE must include a description of actions that it will implement to ensure correction of identified noncompliance within one year of identification and provide the timeline for SEA verification activities that ensure identified noncompliance was, in fact, corrected within one year of identification.

On page 5 of cluster area I in the FFY 2003 APR, ASDOE reported that it monitored seven schools during the 2003-2004 school year and that the ASDOE Instructional Management Team of the SEA visited all other schools (22). ASDOE provided two graphs as Attachments to the APR: 1) a pie chart depicting the total percentages of findings of noncompliance made during the school monitoring visits in 2003-2004; and 2) a bar graph exhibiting the number of findings in each standard by the seven schools monitored during the 2003-2004 school year.<sup>1</sup> During its February 2005 visit, OSEP confirmed, through both a review of records and interviews with staff and parents, that ASDOE corrected the identified noncompliance in items (1) through (4) of the preceding paragraph. OSEP appreciates ASDOE's efforts in this area.

#### Formal written complaints

OSEP's November 2004 letter required ASDOE to clarify the meaning of statements in the Self-Assessment and the FFY 2002 APR by explaining the process for handling informal concerns and formal complaints, describing which complaints and concerns are recorded in the complaint log, and describing how parents are informed about complaint procedures, in accordance with the requirements at 34 CFR §§300.660-300.662. On page 5 of cluster area I in the FFY 2003 APR, ASDOE stated that the procedure was to record in a log book both formal and informal complaints regarding the provision of special education or related services to eligible students. On page 6, ASDOE reported that they were continuously acquiring data regarding the number of parents and guardians who were notified of their rights under the Part B program, and that American Samoa was developing formal and informal procedures so that parents could notify ASDOE if they were dissatisfied with special education programs or services. In Attachment 1, ASDOE reported no formal complaints during the FFY 2003 reporting period and on page 6 of the APR, ASDOE reported that there were no formal complaints documented or reported that required mediation or due process hearings by the SEA for school year 2003-2004. ASDOE also

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<sup>1</sup> Neither the pie chart nor the bar graph included explanations of what the data on them represents. However, in a memo to OSEP dated April 25, 2005, ASDOE sent a satisfactory explanation of both the chart and the graph.

reported that there were 19 informal complaints regarding transportation (10), instructional services (7) and facilities/materials (3). OSEP looks forward to reviewing data and information regarding this area in the SPP due December 2, 2005, including the implementation of strategies for notifying parents of their rights and the resulting data and analysis.

#### Mediation

In Attachment 1 and on page 6 of cluster area I in the FFY 2003 APR, American Samoa reported that there were no requests for mediation during the reporting period. OSEP looks forward to reviewing American Samoa's updated data in this area in the SPP.

#### Due process hearings and reviews

On Attachment 1 and on page 6 of cluster area I in the FFY 2003 APR, American Samoa reported no requests for due process hearings. OSEP looks forward to reviewing American Samoa's updated data in this area in the SPP.

#### Personnel

OSEP's November 2004 letter required American Samoa to provide a plan, within 60 days of the date of that letter, to ensure the correction of noncompliance under 34 CFR §300.300, i.e., the provision of a free appropriate public education (FAPE) despite staff shortages. Additionally, the November 2004 letter required ASDOE to demonstrate progress in hiring and training sufficient, qualified personnel to provide special education and related services for children with disabilities, in accordance with the requirements of their IEPs, within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. ASDOE's January 2005 report included information on the certification status of its special education personnel, information on its teacher certification and training program implemented in conjunction with the University of Hawaii, and data and analysis that demonstrated progress in hiring and training qualified personnel. ASDOE included targets, activities, timelines and resources to implement its personnel development plan and a data system to track special education personnel.

OSEP's March 2005 letter required ASDOE to provide in the FFY 2003 APR: (1) information about staff needed to diagnose and work with children who have emotional problems and ASDOE's efforts to hire social psychologists; (2) an update on its progress for staffing and training sufficient, qualified personnel to provide special education and related services to children with disabilities; and (3) updated information and data on the progress in correcting the personnel shortages identified in the Self-Assessment and the FFY 2002 APR. On pages 6 and 7 of cluster area I in the FFY 2003 APR, ASDOE reported progress in delivering speech and language services to eligible children with disabilities, negotiating with the Developmental Disabilities Policy Council to "share cost for an occupational therapist, and continuing the services of a contracted psychologist, and recruiting a psychologist from Florida for the fall of 2005." On page 7 of cluster area IV, ASDOE described activities, and established targets, to provide services to children with behavioral problems. ASDOE also stated on page 6 of cluster I, that there was a need to increase the number of additional qualified personnel to keep pace with the increased percent of children with disabilities, which was 9% in March 2005, up from

5% the previous school year. OSEP appreciates the work of American Samoa to ensure the provision of FAPE to children with disabilities in the face of personnel shortages. During its February 2005 visit, OSEP identified barriers to utilizing available staff for the provision of special education and related services, including: (1) using special education teachers as substitutes when regular education teachers are absent (taking them away from their assigned duties for children with disabilities); and (2) assigning special education teachers to corrective reading classes in which there are no children with disabilities while children with disabilities are placed in regular education classrooms with no special education support. Within 60 days of the date of this letter, ASDOE must provide an assurance to OSEP that special education teachers will not be removed from their special education assignments and that services required by children's IEPs are being provided in accordance with those IEPs. If ASDOE is unable to provide such assurance, it must provide a plan, with strategies, proposed evidence of change, targets and timelines designed to ensure compliance with 34 CFR §300.300 as soon as possible (not to exceed one year from when OSEP accepts the plan).

#### Collection and timely reporting of accurate data

On pages 4 and 8 of the FFY 2003 APR, ASDOE reported that it conducts continuous and on-going monthly data collection from all schools, reinforced by continuous training and monitoring of all data reviewed and input by Special Education data specialist[s]. ASDOE had received a General Supervision Enhancement Grant (GSEG) from the Department to facilitate the creation of an automated database. During its February 2005 visit, OSEP was informed that this effort was not successful and that special education data would be collected through fields added into the new island-wide student database, Chancery. ASDOE planned to collaborate with Part C to ensure that data were available on all children with disabilities receiving services on the island, and that would facilitate a smooth and effective transition from Part C to Part B for eligible children with disabilities. OSEP remains concerned with ASDOE's inability to ensure the collection and timely reporting of accurate data and separation of data collection systems for children with and without disabilities, and infants and toddlers receiving services under Part C.

With the SPP, or within 60 days from the date of this letter, ASDOE must provide information regarding its progress in establishing a single, transparent and comprehensive data system that will ensure the timely reporting of accurate data under §618 of IDEA.

#### Other: Translation of parents' rights notices

OSEP's November 2004 letter required ASDOE to provide a plan to ensure the correction of noncompliance by demonstrating that the Parents' Rights Notice was translated into the native languages of parents of children with disabilities. ASDOE's January 2005 Report included a plan to provide translations in Tongan and Tagalog, and stated that these translations would be completed in May 2005. OSEP's March 2005 letter directed ASDOE to report in the FFY 2003 APR on its progress in providing translations to parents and its plan for ensuring that parents receive an appropriately translated notice when necessary.

During its February 2005 visit, OSEP was informed that Samoan is primarily a spoken language and that it does not have many of the terms required in the procedural safeguards of IDEA. For

example, there is no direct term for “autism” and that term must be explained by describing its characteristics and symptoms. Many of the teachers are bilingual and the primary mechanism for communicating the procedural safeguards is through spoken explanations, rather than written translations.

Within 60 days of the date of this letter, ASDOE must provide a list of the native languages of the children with disabilities and their parents on American Samoa, along with an indication of whether the language is a written or spoken language. For each written language, ASDOE must indicate a date by which translations of its parents’ rights document will be available in that language.

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

OSEP’s November 2004 letter required ASDOE to provide data and analysis to demonstrate that all children served under Part C and who are eligible for Part B services have an IEP developed and implemented by their third birthdays, including strategies for sharing child count data between Part C and Part B programs and procedures for transferring information about at-risk children.

On page 12 of cluster area II of the FFY 2003 APR, ASDOE reported that Part C staff provided to Part B staff the lists of High Risk and Developmentally Delayed children served under Part C who may be eligible for Part B services. On page 11 of cluster area II of the FFY 2003 APR, ASDOE reported that 100% of the eligible children exiting the Part C program to the Part B program had IEPs by their third birthdays, unless the child moved or the parents refused services. On pages 12 and 13, ASDOE included strategies, proposed evidence of change, targets and timelines designed to ensure continued compliance in this area. These strategies included providing training for parents who had children in the Part C program, introducing parents to the Head Start program, and attending transition meetings for all children, when invited by Part C, within the required timelines. ASDOE also included, as an Attachment, an amended Interagency Early Childhood Transition Plan for Part C/Helping Hands Early Intervention Services, Part B, and Early Childhood Education/Head Start setting up monthly, bi-monthly and 90-day meetings to discuss various transition issues.

During its February 2005 visit, OSEP reviewed nine records of children with disabilities who had recently transitioned from Part C to Part B services. In five of nine instances, preschool staff did not attend the transition planning meeting and in five of nine instances the IEP was implemented after the child’s third birthday (teachers confirmed that this information was correct).

The percentage of children referred by Part C prior to age 3 and who are found eligible for Part B and have an IEP developed and implemented by their third birthdays is an indicator in the SPP under §616 and ASDOE must provide data in its SPP that is responsive to this indicator. In preparation for the submission of the SPP on December 2, 2005, ASDOE should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements.

### ***Parent Involvement***

OSEP's November 16, 2004 letter required American Samoa to include data and analysis, along with a determination of compliance or noncompliance, regarding its system for collecting and reporting data, including monitoring data, to measure parent involvement and describe its performance in this area. If the data demonstrated noncompliance, American Samoa was to include a plan, with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance as soon as possible. If data were not available, American Samoa was to include a plan in the FFY 2003 APR that described how American Samoa would collect data to be able to determine compliance or noncompliance.

On pages 14 through 16 of cluster area III in the FFY 2003 APR, and in the Monitoring Interview Questions for Parents attached to the FFY 2003 APR, ASDOE provided information demonstrating that there is a system for collecting and reporting data to measure parent involvement.

On page 14 of cluster area III in the FFY 2003 APR, ASDOE reported the completion and administration of a parent satisfaction survey that demonstrated parent involvement in the secondary transition program, IEP planning and other related services. The Department of Education/Special Education Division hosted a series of six 30-minute public awareness shows on television, covering the island of Tutuila, as well as the remote islands of Manu'a and Aunu'u. Parents, professionals and consumers participated in a three-day seminar in October 2004 developed by the interagency planning committee, with the Special Education Division serving as one of the lead agencies. Annually, during disability awareness month (October), parents participate in a number of training activities hosted by the Special Education Division. In October 2004, more than 500 families participated.

On page 15, ASDOE reported that parents were also involved in administrative activities, as members of the Vocational Council, Developmental Disabilities Policy Council, Good Will Council, and the Special Education Advisory Council.

The SPP instructions establish a new indicator in this area, for which States and territories must provide baseline data in the FFY 2005 APR, due February 1, 2007. Indicator #8 requires ASDOE to provide the percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities. American Samoa should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the plan to collect this data, in the SPP.



***Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)***

Disproportionality

On page 17 of the FFY 2003 APR, American Samoa stated that, for the FFY 2003 reporting period, it did not identify any significant disproportionality in terms of race/ethnicity regarding the identification, eligibility category, or placement because all children with disabilities in the public school system fell under the Asian or Pacific Islander category. OSEP looks forward to reviewing data in this area in the SPP.

Graduation and drop-out rates

OSEP's November 2004 letter required ASDOE to provide strategies for improving graduation and drop-out rates for children with disabilities. On page 3 of cluster IV to the FFY 2003 APR, ASDOE reported that high school graduation and dropout rates for children with disabilities were not comparable to graduation rates and drop-out rates for nondisabled children. According to the data ASDOE provided on page 3 under cluster area IV, using the "synthetic method" to calculate attendance, graduation and drop-out rates, the graduation rate of students with disabilities in 2003 (52%) was lower than the graduation rate of students without disabilities in 2003 (93%). The drop-out rate for 2003 was 42% for students with disabilities with no comparable drop-out rate for students without disabilities. On page 7 of the tables included with cluster area IV, ASDOE included strategies for improving the graduation and dropout rates. The strategies included: (1) establishing a teacher/student ratio of 1: 6 in the senior year of high school; (2) establishing a system to recognize and reward students with perfect attendance and to inform their parents of the awards; (3) encouraging student participation in after school activities and the extended school year program; (4) scheduling monthly parent training meetings; and (5) assigning parents and community specialists to conduct the training. OSEP looks forward to reviewing information in the SPP, including the implementation of the above strategies and the resulting data and analysis.

Suspension and expulsion rates

OSEP's November 2004 letter required American Samoa to provide information describing how it determines if significant discrepancies are occurring in the rate of long-term suspension and expulsions for children with disabilities compared to children without disabilities or compared to children with disabilities across consortia pursuant to 34 CFR §300.146. On page 5 of the Table for cluster area IV of the FFY 2003 APR, ASDOE reported that in school year 2002-2003, two students with disabilities were suspended or expelled for more than 10 days compared to zero students without disabilities, and during SY 2003-2004, there were no reported suspensions or expulsions for more than 10 days for children with or without disabilities. ASDOE compared suspensions ranging from one to five days, for children with and without disabilities in high schools, and the data showed that the rates were higher for children without disabilities. On page 7 of cluster area IV of the FFY 2003 APR, ASDOE described future activities for increasing services to children with behavioral problems in each consortium in order to maintain the zero long-term suspension and expulsion rate for children with disabilities. These activities included: (1) increasing the number of behavioral intervention personnel; (2) working closely with the

school and family to monitor the child's behavior; and (3) scheduling monthly home visits.

In addition, during OSEP's February 2005 visit, record reviews, supported by teacher and administrator interviews and confirmations, supported the finding that IEPs do not always include a behavior plan and/or goals/objectives to address social/emotional needs, when needed (11 of 23 records (the remainder were not applicable)) pursuant to 34 CFR §300.346(a)(2)(i). Therefore, within 60 days of the date of this letter, ASDOE must submit a plan, including strategies, proposed evidence of change, targets and timelines designed to correct the noncompliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

Indicator #4A in the SPP, due December 2, 2005, requires the submission of baseline data regarding the percent of districts (consortia) identified by American Samoa as having a significant discrepancy in the rates of suspensions and expulsions of children with disabilities for more than 10 days in a school year.

In preparation for this submission, American Samoa should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements.

The percent of districts (consortia) identified by American Samoa as having a significant discrepancy in the rates of suspensions and expulsions of more than 10 days in a school year of children with disabilities by race and ethnicity is a new indicator (Indicator #4B) in the SPP, for which States and territories must provide baseline data in the FFY 2005 APR, due February 1, 2007. American Samoa should carefully review the instructions to the SPP in developing its plans for this collection.

#### Statewide and districtwide assessment

OSEP's November 2004 letter required American Samoa to provide an analysis of data, including monitoring information related to the requirements at 34 CFR §§300.347(a)(5) and to report for both regular and alternate assessments, separately for reading and math performance pursuant to 34 CFR §300.138. During OSEP's February 2005 visit, ASDOE staff reported that the number of children participating in statewide assessments was between 95% and 99%. On page 6 of Attachment 3 and pages 9 and 10 of cluster area IV of the FFY 2003 APR, ASDOE provided some data regarding performance of children with disabilities on the statewide math assessment, but reported that the data were incorrect because of over-identification of IEP students. More students participated as students with IEPs than were actually enrolled as students with IEPs. In addition, there was inconsistent identification across schools of students with disabilities who needed accommodations. On pages 4,7 and 8 of Attachment 3, ASDOE reported that alternate assessments were not administered in time to include that data in the FFY 2003 APR. On page 10 of cluster area IV, ASDOE stated that general education personnel received the data about the statewide assessment, but had no clear understanding of who qualified as an IEP student or of needed accommodations.

On page 10 of cluster area IV, ASDOE included strategies, proposed evidence of change, targets, and timelines designed to ensure compliance as soon as possible. These strategies included: (1)

acquiring a data management system to coordinate the identification of students with IEPs; (2) matching students with IEPs with their identification numbers; and (3) providing training to teachers and school administrators about interpreting SAT 10 data for special education use, alternate assessments, and tracking children with IEPs. OSEP has reviewed and accepts this plan.

The participation and performance of students with disabilities on statewide assessments is an indicator in the SPP that is due December 2, 2005. In preparation for the submission of the SPP, American Samoa should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements. American Samoa must submit responsive baseline data regarding the participation and performance of students with and without disabilities for both regular and alternate assessments, aggregated and disaggregated, in all grades/areas assessed, in the SPP. In addition, ASDOE must fulfill the Special Conditions attached to its FFY 2005 Grant Award regarding statewide assessment.

#### Least restrictive environment (LRE)

On pages 2 and 11 of cluster area IV in the FFY 2003 APR, ASDOE provided data to demonstrate that the majority of children with disabilities, including preschool children, were educated with their nondisabled peers. OSEP appreciates American Samoa's efforts in this area and looks forward to reviewing updated data and information in the SPP.

#### Preschool performance outcomes

On page 12 of cluster area IV in the FFY 2003 APR, ASDOE stated that preschool children with disabilities were receiving language/communication, pre-reading, and social-emotional development and special education services. ASDOE reported that children were assessed in the areas of spoken English vocabulary, letter recognition and early math, and that the data showed improvement in these areas. Data regarding assessments were provided in the Head Start National Reporting System Spring 2004 report that was attached to the FFY 2003 APR. OSEP appreciates American Samoa's efforts in this area.

The SPP instructions establish a new indicator in this area, for which States and territories must provide baseline data in the FFY 2005 APR, due February 1, 2007. American Samoa should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing American Samoa's plan to collect this data, in the SPP.

#### Other: Procedures for determining eligibility

OSEP's November 2004 letter required ASDOE to provide data and analysis, including a determination of compliance or noncompliance with the procedures for evaluation and determination of a child's eligibility for Part B services, as required at 34 CFR §300.530. Specifically, American Samoa was required to provide data and analysis in the FFY 2003 APR, including: (1) the number and dates of referrals; (2) the corresponding dates when evaluations were completed; and (3) an analysis of the availability of personnel to conduct evaluations.

American Samoa did not include the data and information in the FFY 2003 APR. Therefore, within 60 days of the date of this letter, American Samoa must provide the data and information requested above. If the data demonstrate noncompliance, American Samoa must include a plan, with strategies, proposed evidence of change, targets and timelines to correct the noncompliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

In addition, during OSEP's February 2005 visit, record reviews, supported by teacher and administrator interviews and confirmations, supported the following findings: (1) initial evaluations or reevaluations were not completed in a timely manner (20 of 38 files (one contained no information)); (2) initial evaluations and reevaluations were not conducted in accordance with 34 CFR §§300.320, 300.321, 300.542, 300.532 and 300.533 (25 of 38 files); and (3) evaluation information was not solicited from the child's parents, in accordance with 34 CFR §300.533(a)(1)(i). Within 60 days of the date of this letter, along with the information required above, American Samoa must provide a plan, including strategies, proposed evidence of change, targets and timelines designed to correct the noncompliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

Other: Annual review of IEPs

OSEP's November 2004 letter required American Samoa to provide in the FFY 2003 APR data and analysis, along with a determination of compliance or noncompliance, with respect to the requirement of 34 CFR §300.343(c)(1) that IEPs be reviewed at least annually. ASDOE did not include this information in the FFY 2003 APR. However, during OSEP's February 2005 visit, OSEP discovered that in 39 instances, only twice were IEPs not reviewed at least annually. Teachers confirmed that the two instances involved scheduling issues with the parent and, in both cases the delays were only a few days beyond one year, at the parent's request. OSEP appreciates ASDOE's efforts in this area. In addition, the planned automated data system will assist ASDOE in tracking these dates and ensuring continued compliance with this requirement.

Other: Local educational agency (LEA) representative at IEP meetings

During OSEP's February 2005 visit, record reviews, supported by teacher and administrator interviews and confirmations, supported the finding that the LEA representative often does not meet the requirements of 34 CFR §300.344(a)(4) requiring a representative from the public agency to be part of the IEP team. OSEP found that ASDOE was out of compliance in 19 of the 36 records it reviewed (3 did not have the information). According to the regulation, the representative is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general curriculum and is knowledgeable about the available resources of ASDOE. Therefore, within 60 days of the date of this letter, ASDOE must submit a plan, including strategies, proposed evidence of change, targets and timelines designed to correct the noncompliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

Other: Accessibility of the IEP

During OSEP's February 2005 visit, record reviews, supported by teacher and administrator

interviews and confirmations, supported the findings that: 1) IEPs are not accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation, as required by 34 CFR §300.342(b)(2); and 2) each teacher and provider is not informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for the child in accordance with the IEP, as required by 34 CFR §300.342(b)(3) (36 of 39 records). This is critical in American Samoa, given the special education structure. Most children receive special education services related to reading and math, including the frequent use of collaborative or co-teaching models. Children with disabilities are most often placed in regular education classrooms for science and social studies, without direct special education support. It is essential that regular education teachers know what modifications and accommodations are required for each child with disabilities in their classrooms, and to be aware of the goals and supports that apply to individual children. A thorough knowledge of the IEP requirements for individual children is necessary in order for them to provide appropriate instructional support. Therefore, within 60 days of the date of this letter, ASDOE must submit a plan, including strategies, proposed evidence of change, targets and timelines designed to correct the noncompliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

### ***Secondary Transition***

OSEP's November 2004 letter required American Samoa to provide a plan, within 60 days of the date of that letter, with strategies, proposed evidence of change, targets, and timelines designed to ensure the correction of noncompliance with the requirement at 34 CFR §300.344(b) regarding a student's participation in the IEP meeting if the purpose of the meeting will be the consideration of transition service needs or needed transition services. OSEP's November 2004 letter also required that ASDOE provide, in the FFY 2003, data and analysis demonstrating progress toward compliance and provide a report to OSEP as soon as possible, but not later than 30 days following the end of the one-year timeline.

ASDOE's January 2005 report included a plan to correct the noncompliance and in its March 2005 letter, OSEP accepted the plan. Also in the March 2005 letter, OSEP required ASDOE to provide in the FFY 2003 APR, data and information regarding its progress in meeting the targets and timelines outlined in its plan.

On page 1 of cluster area V of the FFY 2003 APR, ASDOE reported that the percentage of students participating in meetings had improved; however, ASDOE did not provide the data and information regarding its progress in meeting targets and timelines, as required by OSEP's March 2005 letter. Therefore, within 60 days of the date of this letter, ASDOE must provide this information to OSEP.

OSEP's November 2004 letter also required American Samoa to submit a plan in the FFY 2003 APR, ensuring correction of noncompliance with the requirements at 34 CFR §§300.344(b)(3) and 300.345 regarding the participation of parents, and outside agencies likely to be responsible for providing, or paying for, transition services, in IEP meetings where a purpose is transition planning. On pages 1 and 2 of cluster area V in the FFY 2003 APR, ASDOE submitted the required plan. OSEP has reviewed and accepts this plan. American Samoa must include data

and analysis documenting progress toward compliance with the SPP or within 60 days from the date of this letter, and provide a final report to OSEP, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.

Other: Content of notice

During OSEP's February 2005 visit, record reviews, supported by teacher, administrator and parent interviews and confirmations, supported the following findings regarding the content of the notice of the IEP meeting when transition would be discussed (34 CFR §300.345(b)(3)): (1) parents were not informed that transition services would be discussed (10 of 11 records); and (2) parents were not informed that the student would be invited. Therefore, within 60 days of the date of this letter, ASDOE must submit a plan, including strategies, proposed evidence of change, targets and timelines designed to correct the noncompliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

**Conclusion**

With the SPP due December 2, 2005, or within 60 days of the date of this letter, American Samoa must submit:

- (1) description of actions that can be implemented to ensure correction of identified noncompliance within one year of identification and the timeline for SEA verification activities that ensure identified noncompliance was, in fact, corrected within one year of identification;
- (2) information regarding its progress in establishing a single, transparent and comprehensive data system that will ensure the timely reporting of accurate data under §618 of IDEA; and
- (3) progress toward compliance in ensuring correction of noncompliance with the requirements at 34 CFR §§300.344(b)(3) and 300.345 regarding the participation of parents, and outside agencies likely to be responsible for providing, or paying for, transition services, in IEP meetings where a purpose is transition planning. In addition, ASDOE must provide a final report to OSEP, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.

Within 60 days of the date of this letter, ASDOE must submit the following:

- (1) an assurance that special education teachers will not be removed from their special education assignments and that services required by children's IEPs are being provided in accordance with those IEPs. If ASDOE is unable to provide such assurance, it must provide a plan, with strategies, proposed evidence of change, targets and timelines designed to ensure compliance with 34 CFR §300.300 as soon as possible (not to exceed one year from when OSEP accepts the plan);
- (2) a list of the native languages of the children with disabilities and their parents on

American Samoa, along with an indication of whether the language is a written or spoken language. For each written language, ASDOE must indicate a date by which translations of its parents' rights document will be available in that language;

- (3) data and analysis, including a determination of compliance or noncompliance with the procedures for evaluation and determination of a child's eligibility for Part B services, as required at 34 CFR §300.530. Specifically, American Samoa must provide: (1) the number and dates of referrals; (2) the corresponding dates when evaluations were completed; and (3) an analysis of the availability of personnel to conduct evaluations. If the data and information submitted demonstrates noncompliance, ASDOE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to ensure compliance as soon as possible, but in no case later than one year from when OSEP accepts the plan);
- (4) a plan, as described above, to ensure compliance with: (a) initial evaluations or reevaluations are completed in a timely manner; (b) initial evaluations and reevaluations are conducted in accordance with 34 CFR §§300.320, 300.321, 300.542, 300.532 and 300.533; and (c) evaluation information is solicited from parents in accordance with 34 CFR §300.533(a)(1)(i);
- (5) a plan, as described above, to ensure compliance with the requirement 34 CFR §300.346(a)(2)(i) that IEPs include a behavior plan and/or goals/objectives to address social/emotional needs, when needed;
- (6) a plan, as described above, to ensure compliance with the requirement that an LEA representative, who meets the requirements of 34 CFR §300.344(a)(4) attends each IEP meeting;
- (7) a plan, as described above, to ensure compliance with the requirement that IEPs are accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation, as required by 34 CFR §300.342(b)(2), and each teacher and provider is not informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for the child in accordance with the IEP, as required by 34 CFR §300.342(b)(3);
- (8) data demonstrating the results of implementation of the plan OSEP accepted in March 2005 to ensure compliance with the requirement at 34 CFR §300.344(b) regarding a student's participation in the IEP meeting if the purpose of the meeting will be the consideration of transition service needs or needed transition services; and
- (9) a plan, as described above, to ensure compliance with the requirements regarding the content of notice of the IEP meeting when transition would be discussed (34 CFR §300.345(b)(3)): (1) parents are informed that transition services will be discussed; and (2) parents are informed that the student will be invited.

IDEA 2004 §616 requires each State and territory to submit an SPP that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to clusters and probes in the APR. OSEP encourages American Samoa to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

OSEP recognizes that the APR and its related activities represent only a portion of the work in American Samoa and looks forward to collaborating with you as you continue to improve results for children and youth with disabilities and their families. If you have questions, please contact Lucille Sleger at (202) 245-7528.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education Programs

cc: Moeolo Va'atausili, Director  
Special Education Programs