



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

Honorable Nena S. Nena
Secretary
Department of Health, Education, and
Social Affairs
PS70, Palikir, Pohnpei State, FSM 96941

SEP 22 2005

Dear Mr. Nena:

The purpose of this letter is to respond to the Federated States of Micronesia's (FSM's) April 4, 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 the State or territory 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. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

FSM's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to FSM's FFY 2003 APR. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion to OSEP's January 14, 2005 letter responding to FSM's FFY 2002 APR required FSM to:

1. Describe how it utilized data from all available sources, including monitoring, to identify and remediate systemic issues throughout the Federated States;
2. Provide evidence of correction of noncompliance related to the submission of accurate and timely data under §618 of IDEA;
3. Demonstrate that all needed interagency agreements met the requirements of 34 CFR §300.142;
4. Submit either documentation of data, targets for improved performance and strategies to achieve those targets for skills of preschool children with disabilities, or a plan to collect the data, to demonstrate that early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services were improving;
5. Submit graduation and drop-out data collected through FSM's new comprehensive data system; and

6. Submit data and its analysis, along with a determination of compliance or noncompliance with 34 CFR §300.146 to determine if significant discrepancies were occurring in the rate of long-term suspensions and expulsions of children with disabilities compared to the rates for nondisabled children or compared among public agencies. Where the State determined that significant discrepancies were occurring, it had to review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions, and procedural safeguards to ensure that the policies, procedures and practices complied with Part B.

FSM was also required to include data and its analysis, along with a determination of compliance or noncompliance in the areas below. If the data demonstrated noncompliance, the State had to include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepted the plan. If data were not available, FSM had to include a plan in the FFY 2003 APR to describe how it collected data to enable it to determine compliance or noncompliance with the following:

1. Identifying and correcting noncompliance in a timely manner on the results of its visits to verify FSM Program Standards, and include data and analysis along with a determination of compliance or noncompliance regarding Part B monitoring requirements;
2. The effect of deficiencies in numbers of qualified personnel on the provision of appropriate special education and related services to children with disabilities in accordance with their individualized education programs (IEPs);
3. The requirements at 34 CFR §§300.125 and 300.300(a)(1) regarding child find and the provision of FAPE;
4. The requirements at 34 CFR §§300.138 and 300.139 regarding the participation and performance of children with disabilities in statewide assessments and alternate assessments, along with reporting publicly and to the Secretary on participation and performance;
5. The requirements at 34 CFR §300.552(b)(2) regarding the placement of children with disabilities in the least restrictive environment based on the requirements of the children's IEPs; and
6. The requirements at 34 CFR §§300.347(b) and 300.348(b) regarding the documentation and provision of secondary transition services for children with disabilities.

General Supervision

Identification and timely correction of noncompliance

OSEP required FSM in the FFY 2002 APR to respond to the probe: "Do general supervision instruments and procedures used by the SEA, identify and correct IDEA noncompliance in a timely manner?" and provide data regarding the results of its visits to verify FSM Program

Standards. FSM was also required to include data and analysis along with a determination of compliance or noncompliance regarding Part B monitoring requirements. If data were not available, FSM had to include a plan in the FFY 2003 APR that described how FSM would collect data to enable it to determine compliance or noncompliance.

On pages 2-6 of the FFY 2003 APR, FSM provided a description of the current status of its revised monitoring system, including the alignment of FSM's monitoring system to OSEP's CIFMS for: (1) monitoring of all Part B requirements; (2) a quarterly report from each FSM State of fiscal, compliance, and performance data; (3) a process to ensure correction of noncompliance; and (4) a schedule for the monitoring of each of its four States on an annual cycle. FSM reported that each State received a monitoring visit annually that included child record reviews and parent and staff interviews. FSM reported the results and enforcement actions for two island states on page six of the APR. (Because of the timing of the submission of the APR, the results of the other two island states were not available.) OSEP appreciates FSM's efforts in ensuring compliance with these monitoring requirements and looks forward to updated data reporting on improved performance and compliance in this area in the State Performance Report (SPP) due December 2, 2005.

With regard to the timely correction of identified noncompliance, FSM utilizes the following procedures. On page 3, FSM explained that FSM-HESA (Department of Health, Education and Social Affairs) provides a *Letter of Concern* to the State Director of Education, with a copy to the State Special Education Program Coordinator, citing noncompliance findings during the monitoring and verification of data 10 calendar days after the findings from the state quarterly progress report review and/or the on-site monitoring/verification visit. Corrective actions or practices required of the state are included in the *Letter of Concern* to ensure that noncompliance areas are corrected in a timely manner. The State must develop a corrective action plan and submit it to the Secretary of FSM-HESA, with a copy to the Executive Director of FSM-HESA Special Education Program, within 30 calendar days. The State is allowed up to one calendar year to correct noncompliance(s) upon approval of the corrective action plan by FSM-HESA.

On page 4, FSM explained that with the 2003-04 revisions to its monitoring system, the monitoring system both identifies noncompliance and includes "enforcement actions" to ensure correction of noncompliance in a timely manner. While FSM's procedures describe detailed follow-up steps that FSM takes to ensure correction of identified noncompliance, including the use of sanctions where appropriate, FSM may not use a timeline of one year from the date the State approves a corrective action plan in response to notification of noncompliance. Under 20 U.S.C. 1232d(b)(3)(E) and 34 CFR §300.600, FSM must ensure the timely correction of noncompliance identified through monitoring as soon as possible, not to exceed one year of identification. In the SPP due December 2, 2005, FSM must either provide evidence that its monitoring procedures require the correction of noncompliance, identified through monitoring, as soon as possible, not to exceed one year from identification and not from the date of approval of a corrective action plan, or amended monitoring procedures that ensure timely correction of identified noncompliance within one year of identification.

Identification and remediation of systemic issues

OSEP required FSM in its January 2005 letter to include information describing how it utilized data from all available sources, including monitoring, to identify and remediate systemic issues throughout the Federated States. On pages 10-11 of the FFY 2003 APR, FSM included a description of the various methods it utilized, including quarterly progress reports, monitoring visits, and prioritizing issues through its Steering Committee. FSM presented a plan that described timelines for identifying issues from the data it collected. OSEP appreciates the work FSM has done in ensuring compliance with these requirements.

Dispute resolution -- complaint investigations, mediations, and due process hearings and reviews

In the FFY 2002 APR, FSM reported that there were no requests for complaint investigations, mediations, and due process hearings. In Attachment 1 of the FFY 2003 APR, FSM also reported that there were no requests for complaint investigations, mediations, and due process hearings from July 1, 2003 - June 30, 2005. In the FFY 2002 APR, FSM questioned whether the lack of requests was due to a lack of awareness by parents and staff regarding dispute resolution procedures. On page 7 of the FFY 2003 APR, FSM described various activities it utilized, including its annual parent conference and increased dissemination and training activities for parents on dispute resolution, mediation, and due process hearings. FSM also reported that, through its monitoring visits, it required two island states to operationalize dissemination activities for dispute resolution. OSEP appreciates the work of FSM in ensuring compliance with these requirements and looks forward to reviewing the State's data around dispute resolution in the SPP.

Personnel

OSEP's January 2005 letter required FSM to address what effect deficiencies in numbers of qualified personnel had on the provision of appropriate special education and related services to children with disabilities in accordance with their IEPs, consistent with 34 CFR §300.300. On pages 12-16 of the FFY 2003 APR, FSM reported on the certification status of its special education personnel. FSM reported that 108 of 206 (53 percent) special education teachers were certified according to State standards. FSM noted on page 15 that the 2003-2004 percentages of fully certified special education teachers remained similar to the percentages reported for 2002-2003. FSM provided targets, future activities, timelines, and resources to implement its National CSPD (Comprehensive System of Personnel Development) Plan and data tracking system for special education personnel. OSEP accepts this plan and appreciates the work of FSM in ensuring the provision of FAPE to children with disabilities in the face of personnel shortages. With respect to early childhood education, FSM reported on pages 19-22 on the status of its data collection for the early childhood population as well as its activities related to training and certification of personnel serving preschool children with disabilities. OSEP appreciates the work FSM is doing to ensure improved performance and compliance in this area.

Collection and timely reporting of accurate data

OSEP's January 2005 letter required FSM to provide evidence that it was reporting accurate and timely data, submitted under §618 of IDEA. On pages 17-18 of the FFY 2003 APR, FSM reported that its data system was able to generate all §618 data tables and reports, and that implementation of its comprehensive data collection system for special and general education was targeted for August 2004. OSEP appreciates the work of FSM in ensuring compliance with these requirements and looks forward to reviewing the State's data in this area as part of the SPP.

Other Areas: Interagency agreements

OSEP's January 2005 letter required FSM to demonstrate that all needed interagency agreements met the requirements of 34 CFR §300.142. On pages 5 and 7 of its APR, FSM reported that two of the four island states had updated agreements and that there were current agreements in the other two island states between Education, Health Services, and Head Start. FSM indicated it was able to ensure that these interagency agreements met the requirements of 34 CFR §300.142 through its on-site monitoring visits, and OSEP is satisfied that concerns regarding FSM's interagency agreements have been addressed.

Other Areas: Child find

In its January 2005 letter, OSEP indicated that it was unable to determine compliance with the implementation of the child find requirements at 34 CFR §§300.125 and 300.300(a)(1) because children with disabilities may not have been identified at an early age in order to ensure FAPE. On pages 8-11 of the FFY 2003 APR, FSM reported trends from its data on identification rates. FSM reported on page 8 of the APR that it increased the number of children with disabilities served in special education and related services by 99 (or 4 percent) from 2002 to 2003. However, OSEP also noted that the identification data for two island states with the lowest identification rates showed the smallest gains (+7 percent in Yap) or negative progress (-1.7 percent in Chuuk). In school year 2003-04, FSM served 8.2 percent of students with disabilities, of the total number of students educated by FSM, in public and private schools. On pages 9 and 10, FSM also listed the range of child find and public awareness activities that it implemented, including facilitated reading screening and math assessment in each of the island states, several times a year, for students in grades 1 through 9; workshops for staff of each island state with representatives of the University of Guam and the Western Regional Resource Center on developmental disabilities and national training on evaluation; and follow-up visits by an off-island pediatrician to the various States to facilitate the early identification of children from birth through age 5. OSEP appreciates the work of FSM in ensuring improved performance and compliance 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. FSM should carefully review the instructions to the SPP in developing its plans for this collection. In the SPP due December

2, 2005, FSM must describe how data are to be collected for this new indicator so that FSM will be able to report baseline data and targets in the FFY 2005 APR due February 1, 2007. This will include how FSM will collect data on the number of children identified in the early grades. OSEP looks forward to reviewing this information in the SPP.

Early Childhood Transition

The instructions to this cluster ask States to report on the number of children participating in Part C who transition to Part B of IDEA who have an individualized education program (IEP) or individualized family service plan (IFSP) in effect by the child's third birthday (34 CFR §300.132(b)). FSM does not participate in Part C of IDEA—Early Intervention Program for Infants and Toddlers with Disabilities.

Parent Involvement

On pages 23-25 of the FFY 2003 APR, FSM reported, "each Island State has supported the development of a local Parent Organization." FSM provided data on the parental participation on various panels and committees. FSM set targets for facilitated parent training in the IEP process and increasing the participation of parents to at least 50 percent on the various steering committees. On page 23, based on the parent survey conducted in Yap State, 77 percent of parents surveyed indicated that they are involved in the IEP process. Based on the IEP file reviews conducted in Pohnpei State, 59 percent of the IEPs did not have parent signatures indicating that parents were present at the IEP meetings.

On page 24, FSM explained that through the parent organization of each island state, parent training and meetings provide regular interactions and discussion with service providers regarding the issues and needs of children with disabilities and their families. On a quarterly basis, island state-specific parent training and meetings will continue to be reported in the island state quarterly progress report for FSM-HESA to collect, compile, and summarize the impact of parent involvement. Annually, the FSM National Steering Committee will review state reported data on parent training and survey activities for prioritizing National initiatives, such as the annual Parent-Consumer Conference designed for parents of children with disabilities. OSEP appreciates FSM'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. FSM should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing FSM's plan for collecting data for indicator #8 in the SPP.

Free Appropriate Public Education in the Least Restrictive Environment

Disproportionality

On page 27 of the FFY 2003 APR, FSM noted that all children with disabilities served in special education were “Asian or Pacific Islander.” FSM reported that each Island State Steering Committee determined that the “issues related to ethnic distribution were not appropriate given the general and school population composition in each Island State.”

Graduation and drop-out rates

OSEP’s January 2005 letter directed FSM to submit graduation and drop-out data collected through its new comprehensive data system. On pages 29-31 of the FFY 2003 APR, FSM reported some data, although not all that OSEP had required regarding graduation and drop-out rates. With respect to dropouts, FSM reported a 35 percent drop-out rate for students with disabilities. On page 29, FSM explained that based on the 2003 FSM Self Assessment Report, there is no current data system to accurately compile and report graduation and drop-out rates for comparing students with disabilities to students without disabilities. Public high schools do not consistently report graduation rates. Schools also do not collect and compile suspension/expulsion and drop-out data. Kosrae reported that 18 of 22 students (almost 82 percent) graduated from high school with a diploma and four students dropped out. Kosrae reported the highest number of students graduating with high school degrees, while Chuuk had four, Pohnpei had four, and Yap had six. Chuuk also had eight students exit school with certificates.

OSEP could not determine from FSM’s data and analysis the status of its graduation and drop-out rates as compared with those for nondisabled students. The analysis of some of the data that FSM presented was not always consistent. For example, FSM reported in Table 13 on page 29 that 70 students with disabilities exited special education in 2003-2004. In the discussion, however, FSM based its analysis on 130 students with disabilities who exited special education. FSM was unable to make comparisons between students with and without disabilities because of missing data. FSM indicated on page 30 that there were improvements in the collection and compilation of data related to students with disabilities.

Under §618(a)(1)(A)(iv) of IDEA 2004, States and territories are required to report, for each year of age from age 14 through 21, the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services, and, under §618(a)(2), any other information that may be required by the Secretary. FSM must include data and analysis documenting compliance in this area in the SPP.

Graduation and drop-out rates are indicators in the SPP due December 2, 2005, and FSM must provide data in its SPP that is responsive to these indicators. In preparation for the submission of the SPP on December 2, 2005, FSM should carefully consider its current data collection against the requirements related to these indicators in the SPP packet to ensure that data will be responsive to those requirements.

Suspension and expulsion

OSEP's January 2005 letter required FSM to provide data and its analysis, along with a determination of compliance or noncompliance with the requirements of 34 CFR §300.146, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities compared to the rates for nondisabled children or compared across agencies, and if they are, the results of the review of policies, procedures, and practices related to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, as required by 34 CFR §300.146. FSM still has not provided sufficient data to make a determination of compliance or noncompliance in this area. FSM reported its available data on pages 29-31 of the FFY 2003 APR. FSM was unable to make comparisons between children with and without disabilities because there were no comparison data for children without disabilities. FSM did not provide a comparison of data across agencies or island states within FSM. FSM's target for this area included a comprehensive student data system between special and general education by August 2004. On page 31, FSM indicated that it has determined that the comparison requirement for suspension/expulsion will be to compare rates amongst the four FSM island states. However, as the student data system is fully implemented, attempts to gather similar data for students without disabilities will be done to assess the long-term implications.

Indicator #4 in the SPP under §616 of IDEA requires data on suspensions and expulsion. In preparation for the submission of the SPP, FSM 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. FSM must submit responsive baseline data regarding the percent of districts identified by FSM as having a significant discrepancy in the rates of long-term suspensions and expulsions in a school year (Indicator #4A).

Statewide and districtwide assessment

OSEP's January 2005 letter required FSM to include a plan in the FFY 2003 APR that described how FSM collected data to enable it to determine compliance or noncompliance with the requirements of 34 CFR §§300.138 and 300.139 regarding the participation and performance of children with disabilities in Statewide assessments and alternate assessments, along with reporting publicly and to the Secretary on the participation and performance of children with disabilities on Statewide assessments and alternate assessments. FSM has developed guidelines for the participation of children with disabilities on the National Standardized Test (NST), its Statewide assessment, the provision of necessary and appropriate accommodations, as well as

guidelines for the participation of children with disabilities in alternate assessments. On page 32 of the FFY 2003 APR, FSM stated that it would collect and compile baseline participation and performance data with the full implementation of the NST guidelines, including guidelines for the alternate assessment. On pages 31-32, FSM reported that data were not available during the reporting period. FSM indicated that the University of Guam had provided technical assistance to FSM. FSM provided a plan to administer the NST, as well as alternate assessments, in April/May 2005. OSEP has reviewed and accepts this plan. The State must include data and analysis documenting progress toward compliance in the SPP and provide a final report to OSEP, including data and analysis demonstrating compliance, no later than May 31, 2006.

Least restrictive environment (LRE)

OSEP's January 2005 letter required FSM to include in its FFY 2003 APR data and its analysis, along with a determination of compliance or noncompliance with the requirements at 34 CFR §300.552(b)(2) regarding the placement of children with disabilities in the least restrictive environment based on the needs of children with disabilities as determined by their IEPs. In the FFY 2002 APR, OSEP was concerned that there were limited placement options for students with disabilities, and that as a result, placement of children with disabilities might not be based on the child's needs as required by their IEPs (34 CFR §300.552(b)). On page 32 of the FFY 2003 APR, FSM reported that for the 3-5 age group, 48 percent of the preschoolers with disabilities received services in an "Early Childhood Special Education Setting," whereas for the 6-21 age group, 90 percent of the students with disabilities were primarily in general education settings for most of the school day. On page 33, FSM reported that 30.8 percent of the 3-5 age group and 90 percent of the 6-21 age group of children with disabilities were primarily in general education settings for most of the day in 2002-2003. In 2003-2004, the percentage increased to 32 percent for the 3-5 age group and 97 percent for the 6-21 age group. On page 33, FSM indicated that its monitoring system was designed to identify noncompliance in LRE provisions and that FSM made a finding of noncompliance when services were not provided based on the needs of the child with a disability in one of its island States. OSEP appreciates the work of FSM in this area.

Preschool performance outcomes

In its January 2005 letter, OSEP required FSM to submit data and analysis regarding preschool outcomes (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan. FSM indicated on page 33 of the FFY 2003 APR that it had contracted with the University of Guam to facilitate the development of National guidelines. Guidelines for all four island states were adopted from one of the island state's procedures. FSM indicated that procedures included a tool to monitor the progress of all preschool children including children with disabilities. FSM stated it would report these data to fulfill this requirement during the 2005-2006 school year. OSEP appreciates FSM's efforts in this area and looks forward to

reviewing updated data and information in the SPP. The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. FSM should carefully review the instructions to the SPP in developing its plans for this collection.

Secondary Transition

OSEP's January 2005 letter stated that it could not determine compliance or performance with the requirements in 34 CFR §§300.347(b) and 300.348(b) regarding the documentation and provision of secondary transition services for children with disabilities. OSEP required FSM to include data and its analysis, along with a determination of compliance or noncompliance with these requirements in the FFY 2003 APR. On pages 35-36 of the FFY 2003 APR, FSM indicated that it had contracted with the University of Hawaii to provide training on transition planning for secondary students with disabilities. FSM stated that it has a monitoring system in place to identify noncompliance with secondary transition requirements, as evidenced by findings it made in this area in two of the island states. FSM's target and activities focused on fully implementing its student data system to track and monitor progress. OSEP appreciates FSM's efforts in this area and looks forward to reviewing updated data and information in the SPP. The SPP instructions establish two new indicators on transition (#13 and #14), for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection.

FSM did not provide data on the percentage of youth with disabilities participating in post-school activities, although it indicated that a national data system would be in place by July 2005. The SPP instructions establish a new indicator on post-school outcomes, for which States and territories must provide baseline data in the FFY 2005 APR due February 1, 2007. FSM should carefully review the instructions to the SPP in developing its plans for this collection. In the SPP due December 2, 2005, FSM must describe how data are to be collected for this new indicator so that FSM will be able to report baseline data and targets in the FFY 2005 APR due February 1, 2007. OSEP looks forward to reviewing this information in the SPP.

Conclusion

In the State's Performance Plan, due December 2, 2005, FSM must submit to OSEP:

1. Evidence demonstrating how its monitoring procedures ensure the correction of noncompliance identified through monitoring within one year of identification, as required by 20 U.S.C. 1232d(b)(3)(E), including the results of corrective actions occurring as soon as possible but not later than one year of identification, or a copy of its amended procedures ensuring the timely correction of noncompliance identified through monitoring as soon as possible, not to exceed one year of identification;
2. Data and analysis regarding graduation and drop-out rates consistent with the SPP instructions;

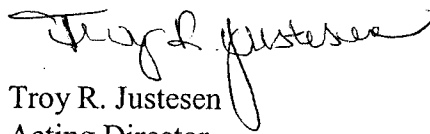
3. Data and analysis regarding suspensions and expulsions consistent with the SPP instructions; and
4. A description of how data are to be collected so that the State will be able to report baseline data and targets in the FFY 2005 APR due December 2, 2005, for the following new indicators: child find, preschool outcomes, parent involvement, secondary transition, and post-school outcomes.

FSM must also include in the SPP data and analysis documenting progress toward compliance with requirements at 34 CFR §§300.138-300.139 regarding statewide assessments, and provide a final report to OSEP, including data and analysis demonstrating compliance, no later than May 31, 2006.

IDEA 2004, §616, requires each State to submit a State Performance Plan (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 FSM 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 your Freely Associated State 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 Ms. Judy Gregorian at (202) 245-7360.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Mr. Makir Keller