



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 15 2007

Honorable Phyllis L. Wallace
Acting Commissioner
Department of Health
Sugar Estate #48
St. Thomas, VI 00802

Dear Acting Commissioner Wallace:

Thank you for the timely submission of the Virgin Islands' Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA), as amended in 2004. We also appreciate the revisions to the Virgin Islands' SPP received on May 11, 2007.

As you know, under IDEA sections 616 and 642, the Territory has an SPP that evaluates the Territory's efforts to implement the requirements and purposes of Part C of the IDEA and describes how the Territory will improve its implementation of Part C. In the revised SPP due by February 1, 2007, the Territory was required to provide information on: (1) specific new indicators; and (2) correction of any deficiencies identified in the Office of Special Education Programs' (OSEP's) SPP response letter sent to your Territory last year. The Territory was also required to submit by February 1, 2007, an APR for Federal fiscal year (FFY) 2005 that describes the Territory's: (1) progress or slippage in meeting the measurable and rigorous targets established in the SPP; and (2) any revisions to the Territory's targets, improvement activities, timelines or resources in the SPP and justifications for the revisions. We appreciate the Virgin Islands' efforts in preparing the FFY 2005 APR and revised SPP.

The Department has reviewed the information provided in the Territory's FFY 2005 APR and revised SPP, other Territory-reported data, information obtained through monitoring visits, and other public information and has determined that, under IDEA sections 616(d) and 642, the Territory needs assistance in meeting the requirements of Part C of the IDEA. The Territory should review IDEA section 616(e) regarding the potential future impact of the Department's determination.

The Department's determination is based on the totality of the Territory's data in its SPP/APR and other publicly available information, including any compliance issues. The factors in the Territory's FFY 2005 APR and February 1, 2007 SPP submissions that affected the Department's determinations were whether the Territory: (1) provided valid and reliable FFY 2005 data that reflect the measurement for each indicator, and if not, whether the Territory provided a plan to collect the missing or deficient data; and (2) for each compliance indicator that was not new (a) demonstrated compliance or timely corrected noncompliance, and (b) in instances where it did not demonstrate compliance, had nonetheless made progress in ensuring compliance over prior performance in that

area. We also considered whether the Territory had other IDEA compliance issues that were identified previously through the Department's monitoring, audit or other activities, and the Territory's progress in resolving those problems. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2007" for further details.

Specific factors affecting OSEP's determination for the Virgin Islands include: (1) for Indicator 9, the State reported 76% compliance; and (2) the Virgin Islands is under special conditions to ensure fiscal accountability and prompt payment of early intervention service providers. For these reasons, we were unable to determine that the Virgin Island met requirements under IDEA sections 616(d) and 642. Balancing these factors were that the Virgin Islands: (1) provided FFY 2005 data for each indicator; (2) reported 100% compliance for Indicators 1, 7, 8A, 8B; and (3) a high level of performance and correction for Indicator 8C (94%). We hope that the Virgin Islands will be able to demonstrate that it meets requirements of Part C in its FFY 2006 APR.

The table enclosed with this letter provides OSEP's analysis of the Territory's FFY 2005 APR and revised SPP and identifies, by indicator, OSEP's review and acceptance of any revisions made by the Territory to its targets, improvement activities (timelines and resources) and baseline data in the Territory's SPP. It also identifies, by indicator, the Territory's status in meeting its targets, and whether the Territory's data reflect progress or slippage, and whether the Territory corrected noncompliance and provided valid and reliable data. The table also lists, by indicator, any additional information the Territory must include in the FFY 2006 APR or, as needed, the SPP due February 1, 2008, to address the problems OSEP identified in the revised SPP or FFY 2005 APR. The Territory must provide this required information. We plan to factor into our determinations next year whether or not the Territory provided the additional information requested in this table in their FFY 2006 APR, due February 1, 2008, and may take other actions as well, if the Territory's data, or lack of data, regarding these issues indicates continuing noncompliance.

As you know, the Territory must report annually to the public on the performance of each early intervention services (EIS) program located in the Territory on the targets in the SPP under IDEA section 616(b)(2)(C)(ii)(I) and 642. The requirement for public reporting on EIS programs' performance is a critical provision in ensuring accountability and focusing on improved results for infants and toddlers with disabilities. Please have your staff notify your OSEP State Contact when and where the Territory makes available its public report on EIS program performance. In addition, the Territory must review EIS program performance against targets in the Territory's SPP, especially the compliance indicators, determine if each EIS program meets the requirements of the IDEA and inform each EIS program of its determination. For further information regarding these requirements, see the SPP/APR Guidance Materials at <http://www.rrfcnetwork.org/>.

We hope that the Virgin Islands found helpful, and was able to benefit from, the monthly technical assistance conference calls conducted by this Office, ongoing consultation with OSEP State Contacts and OSEP-funded Technical Assistance Center staff, materials found on the IDEA 2004 website, and attendance at OSEP-sponsored conferences. OSEP will continue to provide technical assistance opportunities to assist the Virgin Islands as it works to improve performance under Part C of the IDEA. If you have any feedback on

our past technical assistance efforts or the needs of the Virgin Islands for guidance, we would be happy to hear from you as we work to develop further mechanisms to support the Virgin Islands' improvement activities.

OSEP is committed to supporting the Virgin Islands' efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with the Virgin Islands over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please do not hesitate to call Sheryl Parkhurst, your OSEP State Contact, at 202-245-7472.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator