



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

NOV - 4 2005

Honorable Juan Flores
Superintendent of Education
Department of Education Post Office Box
Hagña, Guam 96932

Dear Superintendent Flores:

The purpose of this letter is to respond to Guam's May 2, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that the State 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 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).

The State'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 Guam's FFY 2003 APR. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's March 2, 2005 APR response letter required Guam to submit the following in the FFY 2003 APR:

1. Data, analysis, and a determination of compliance with 34 CFR §303.501(b), to identify and correct noncompliance through monitoring.
2. Data, analysis, and a determination of whether the Guam Department of Education (GDOE) is providing prior written notice in accordance with 34 CFR §303.403(c)(1) and (2).
3. Clarification of whether GDOE requires that individualized family service plans (IFSPs) be completed at the initial IFSP meeting or within the 45-day timeline, along with a determination of compliance or noncompliance with 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a).
4. An explanation of measurements used to demonstrate "improved and sustained" functional abilities; if those measures are not sufficient, a plan on how it will collect and report the data on early childhood outcomes to OSEP.
5. Data and analysis whether, with the concurrence of the family, a transition conference among the lead agency, the family, and the local school is held at least 90 days before the child is eligible for preschool services as required by 34 CFR §303.148(b)(2)(i), along with a determination of compliance or noncompliance. If the data demonstrated

noncompliance, GDOE was required to submit a plan, with strategies, proposed evidence of change, targets and timelines designed to achieve compliance within required timelines.

General Supervision

Identification and timely correction of noncompliance

OSEP's March 2005 letter required Guam to submit data, analysis, and a determination of compliance with 34 CFR §303.501(b), to identify and correct noncompliance through monitoring. On page 6 of the FFY 2003 APR, Guam provided an analysis in which it determined that it is not in compliance with 34 CFR §303.501(b). On pages 2, 5, and 6 and attachment 3A of the FFY 2003 APR, Guam included strategies, proposed evidence of change, targets and timelines designed to ensure compliance with 34 CFR §303.501(b) regarding procedures for ensuring correction of noncompliance. In Attachment 3A, Guam provided strategies, targets and timelines, with the assistance of the National Center for Special Education Accountability Monitoring, to revise its compliance review process, conduct division monitoring visits to the Part C Program, and establish a mechanism for monitoring progress of corrections for any findings of noncompliance. OSEP has reviewed and accepts this plan. Guam must include data and analysis documenting progress toward compliance in the State Performance Plan (SPP), including (under indicator 9) an explanation of the findings that Guam made during its monitoring of the early intervention system that the APR indicated would be conducted in 2005. Guam must also 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.

Dispute resolution

On page 1 of Attachment 1 of the FFY 2003 APR, Guam included data regarding formal complaints, mediations and due process hearings indicating that there were no complaints, mediations or due process hearings between July 1, 2003 and June 30, 2004. OSEP appreciates Guam's efforts in this area and looks forward to reviewing updated data and information in the SPP.

Other: Prior written notice

OSEP's March 2005 letter required Guam to submit data, analysis, and a determination of whether GDOE is providing prior written notice in accordance with 34 CFR §303.403(c)(1) and (2). On pages 6 and 7 of the FFY 2003 APR, Guam included data and information regarding prior written notice indicating that Guam had copies of procedural safeguard notice translations for five languages, English, Chamorro, Tagalog, Chuukese, and Pohnpeian, that represented the majority of the population based upon the 2000 Census. Guam also stated that meeting parent requests for oral translation of notices was feasible, reasonable, and user-friendly for Guam's island community context. Data collected from a parent survey indicated that 95 percent of the parents who returned the survey understood their parent rights and procedural safeguards notice. GDOE included strategies, proposed evidence of change, targets and timelines designed to

ensure that all parents understand their rights and procedural safeguards. OSEP appreciates Guam's efforts in this area.

Personnel

On page 10 of the FFY 2003 APR, Guam included data and analysis regarding its performance in this area. On page 8 of the FFY 2003 APR, Guam indicated that all children eligible for Part C received the supports and services identified on their IFSP as documented in the Part C data system. Pages 8 and 9 also outlined Guam's recruitment and retention efforts, personnel development plan, and inservice training priorities along with strategies, proposed evidence of change, targets and timelines designed to improve performance in these areas. OSEP appreciates Guam's work in this area.

Collection and timely reporting of accurate data

On page 11 of the FFY 2003 APR, Guam included data and analysis indicating a need to improve performance in the collection and timely reporting of accurate data, and on page 27, Guam raised some concerns regarding the accuracy of its data. Guam also included the following strategies to improve performance: (1) procurement of an integrated database system; (2) update of database system fields to capture and report all IDEA requirements including monitoring data; (3) revision of database procedures for accurate and reliable data; and (4) staff training. OSEP looks forward to reviewing updated information in the SPP, including the implementation of strategies to improve performance and the resulting data and analysis.

Comprehensive Public Awareness and Child Find System

On pages 13 through 18 of the FFY 2003 APR, Guam included data and analysis regarding its performance in this area. On page 14, Guam indicated that, based on its 618 data, the number of infants served (birth to age one) was 42. Guam also indicated that the percentage of infants and toddlers (birth to age three) served (1.4%) was below the national average in 2003. Guam also reported data regarding the number of children served throughout the year. On pages 15 and 16 of the FFY 2003 APR, Guam indicated that it conducted public awareness activities that included: (1) television commercials; (2) radio advertisements; (3) local magazine advertisements; and (4) advertisement in the telephone directory. Public awareness materials were also provided in the five languages that represented the majority of the population Guam serves. Page 17 of the FFY 2003 APR indicated that Guam conducted child find activities for all primary referral sources to ensure all children were identified, evaluated and referred for services. OSEP looks forward to reviewing Guam's updated data in this area in the SPP.

Family Centered Services

On pages 19 through 22 of the FFY 2003 APR, Guam included data and information regarding family centered services from surveys of parents of children served in the Part C program, indicating that 85 percent to 100 percent of respondents responded positively to questions regarding awareness, knowledge, and understanding of procedural safeguard requirements, and 73 percent to 94 percent responded positively when asked questions related to family capacity to

engage in the educational process.¹ OSEP appreciates Guam's efforts to improve performance in this area and looks forward to Guam's response to the family outcome indicator (#4), in the SPP.

Early Intervention Services (EIS) in Natural Environments (NE)

Service coordination

On page 24 of the FFY 2003 APR, Guam included data and analysis regarding its efforts in this area. Guam indicated that a service coordinator is assigned when a child is initially referred to the Part C program. The service coordinator completed an initial screening to determine if the child was developing age appropriately, evaluated parents' concerns and was responsible for evaluation, assessments, eligibility meeting(s) and completion of the IFSP or, if requested, monitoring of child progress. Once assigned, service coordinators remained assigned to each child until there was a valid reason to reassign the case to another service coordinator. OSEP appreciates Guam's efforts in this area.

Evaluation and identification of needs

On page 25 of the FFY 2003 APR, Guam included data regarding evaluations. The timeline for evaluations will be discussed in conjunction with the timeline for IFSPs in the following section of this letter.

Individualized family service plans (IFSPs)

OSEP's March 2005 letter required Guam to clarify whether IFSPs are completed at the initial IFSP meeting or whether initial IFSP meetings are held within the 45-day timeline, along with a determination of compliance or noncompliance with 34 CFR §§303.321(e)(2) and 303.342(a). On page 26 of the FFY 2003 APR, Guam clarified that the Part C program requires that the "development of the child's initial IFSP be completed within 45 days from referral." Guam provided data regarding the percent of overdue evaluations and IFSPs it had each month during the 2003 – 2004 reporting period. Guam also provided data regarding the reasons for those delays, including a breakdown of the percent of delays due to parent and program reasons. Guam reported data indicating that 92 percent of all initial IFSPs for the 2003 to 2004 reporting period, when accounting for parent delays, were completed within 45 days. OSEP looks forward to reviewing GDOE's updated data in the SPP, as required by indicator 7.

Natural environments

On pages 3 through 4, and page 25 of the FFY 2003 APR, Guam included data and information indicating that 100 percent of eligible children in the Part C program were receiving their services in a natural environment. OSEP appreciates Guam's efforts in this area and looks forward to reviewing updated data and information in this area in the SPP.

¹ The survey response rate was 41% (67 out of 162) and the rating scale used in the survey required a "yes", "sometimes" or "no" response.

Early childhood outcomes

OSEP's March 2005 letter required Guam to provide an explanation of measurements used to demonstrate "improved and sustained" functional abilities, or if the data was not sufficient, provide a plan on how Guam will collect and report the data. On page 26 of the FFY 2003 APR, Guam indicated that it was not able to provide an explanation of Guam's measurements used to determine "improved and sustained" functional abilities. In Attachment 3B, Guam included strategies, proposed evidence of change, targets and timelines. OSEP has reviewed and accepts this plan. 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. Absence of this information at that time will be considered in OSEP's annual determination on the status of Guam's performance and compliance required under §616(d) of the IDEA. GDOE should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing GDOE's plan for collecting data, in the SPP.

Early Childhood Transition

OSEP's March 2005 letter required Guam to submit data and analysis on whether, with the concurrence of the family, a transition conference among the lead agency, the family, and the local school is held at least 90 days before the child is eligible for preschool services as required by 34 CFR §303.148(b)(2)(i), along with a determination of compliance or noncompliance. If the data demonstrated noncompliance, Guam was required to submit a plan designed to achieve compliance as soon as possible, but no later than one year from the date OSEP accepted the plan. On page 31 of the FFY 2003 APR, Guam provided a determination that it is not in compliance with 34 CFR §303.148(b)(2)(i). On page 31 of the APR, Guam explained that the Part C program holds two meetings, one with the parent, and one with the Part B representative. However, the federal regulations require the lead agency to "convene a conference among the lead agency, the family and the local educational agency." 34 CFR §303.148(b)(2)(i).

On page 32 and in Attachment 3C of the FFY 2003 APR, Guam included strategies, proposed evidence of change, targets and timelines to address this issue. OSEP accepts these strategies as long as strategy number 8 in Attachment 3C includes monitoring to ensure that the Part B representative is invited to the meeting with the parent and the service coordinator, as required by 34 CFR §303.148(b)(2)(i). Guam 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 30 days following one year from the date of this letter.

Conclusion

As noted above, Guam must submit to OSEP in the State Performance Plan, due December 2, 2005, data and analysis documenting progress toward compliance regarding:

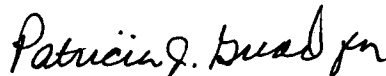
1. Guam's procedures for ensuring correction of noncompliance, 34 CFR §303.501(b); and
2. The requirements in 34 CFR §303.148(b)(2)(i) to convene a conference among the lead agency, the family, and the local school.

Guam must also submit to OSEP a final progress report, including data and analysis demonstrating compliance in the two areas listed above, no later than 30 days following one year from the date of this letter.

IDEA 2004, §616 requires each State to submit a State Performance Plan 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 Guam 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 Guam and looks forward to collaborating with you as you continue to improve results for infants and toddlers with disabilities and their families. If you have questions, please contact Dr. Al Jones at (202) 245-7394.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Cathy Tydingco
Part C Coordinator