



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 15 2007

Honorable David Borja
Commissioner of Education
CNMI Public School System
P.O. Box 501370 CK
Saipan, MP 96950

Dear Commissioner Borja:

Thank you for the timely submission of the Commonwealth of the Northern Mariana Islands' (CNMI's) Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA), as amended in 2004.

As you know, under IDEA section 616, each State and territory has an SPP that evaluates the State's or territory's efforts to implement the requirements and purposes of Part B of the IDEA and describes how the State or territory will improve its implementation of Part B. In the revised SPP due by February 1, 2007, States and territories were 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 the State or territory last year. States and territories were also required to submit by February 1, 2007, an APR for Federal fiscal year (FFY) 2005 that describes the State's or territory's: (1) progress or slippage in meeting the measurable and rigorous targets established in the SPP; and (2) any revisions to the State's or territory's targets, improvement activities, timelines or resources in the SPP and justifications for the revisions. We appreciate CNMI's efforts in preparing the FFY 2005 APR and revised SPP.

The Department has reviewed the information provided in CNMI's FFY 2005 APR and revised SPP, other CNMI-reported data, information obtained through monitoring visits, and other public information and has determined that, under IDEA section 616(d), CNMI needs intervention in meeting the requirements of Part B of the IDEA. CNMI 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 CNMI's data in its SPP/APR and other publicly available information, including any compliance issues. The factors in States' and territories' FFY 2005 APR and February 1, 2007 SPP submissions that affected the Department's determinations were whether a State or territory: (1) provided valid and reliable FFY 2005 data that reflect the measurement for each indicator, and if not, whether the State or 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 State or territory had other

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IDEA compliance issues that were identified previously through the Department's monitoring, audit or other activities, and the State's or territories' 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.

Although CNMI reported a high level of compliance for Indicator 12 (96.5%), and 100% compliance for Indicator 17 (one fully adjudicated hearing), the specific factors affecting OSEP's determination of needs intervention for CNMI included that CNMI reported 47% compliance for Indicator 15. We also note that CNMI remains on heightened oversight of its fiscal management under special conditions first imposed on all of its Department FFY 2006 grants. (Indicator 16 was not considered for CNMI this year as CNMI reported no written complaints during the reporting period.)

With respect to Indicator 15, CNMI is still not able to demonstrate that it is ensuring the correction of identified noncompliance as soon as possible and not later than one year from identification. This issue was first raised with CNMI in response to CNMI's FFY 2003 Self-Assessment. OSEP's January 14, 2005 response to CNMI's May 2003 Self-Assessment stated that PSS did not ensure that its programs for children with disabilities in CNMI, including those administered by any other public agency, meet CNMI's education standards and Part B requirements, as required by 20 U.S.C. §1412(a)(11) and 34 CFR §300.600(a)(2)(ii) [now 34 CFR §300.149(a)(2)(ii)]. On page 20 of the Self-Assessment and on page 3 of the FFY 2002 APR, CNMI stated that it did not have a formal, comprehensive monitoring system to collect and analyze data, and monitor for Part B requirements.

By the time of OSEP's March, 2005 verification visit to CNMI, CNMI had developed a monitoring system that appeared to be reasonably comprehensive, but had not begun monitoring. The issue was discussed in OSEP's November 21, 2005 letter regarding the verification visit, and was flagged again as noncompliance in OSEP's March 2006 letter on CNMI's FFY 2004 SPP. In its FFY 2005 APR, CNMI reported that it had conducted monitoring in two schools during the FFY 2005 reporting period, and provided copies of the two reports dated May 3, 2006. CNMI also reported on the steps it had implemented to ensure that correction occurred. These are all positive steps and demonstrate that CNMI is now reviewing its programs to identify noncompliance. However, CNMI still is not able to demonstrate that it is ensuring compliance with seven of the important requirements regarding provision of services to children with disabilities that are listed in detail in the analysis of Indicator 15 in the attached table for which the Department first identified noncompliance in the November 21, 2005 verification visit letter. We hope that CNMI will be able to demonstrate that it meets requirements in its next APR.

The table enclosed with this letter provides OSEP's analysis of CNMI's FFY 2005 APR and revised SPP and identifies, by indicator, OSEP's review and acceptance of any revisions made by CNMI to its targets, improvement activities (timelines and resources) and baseline data in CNMI's SPP. It also identifies, by indicator, CNMI's status in meeting its targets, and whether CNMI's data reflect progress or slippage, and whether CNMI corrected noncompliance and provided valid and reliable data. The table also lists, by indicator, any additional information CNMI 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. CNMI must provide this required information. We

plan to factor into our determinations next year whether or not States and territories 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 State's or territory's data, or lack of data, regarding these issues indicates continuing noncompliance.

We hope that CNMI 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 CNMI as it works to improve performance under Part B of the IDEA. If you have any feedback on our past technical assistance efforts or the needs of States and territories for guidance, we would be happy to hear from you as we work to develop further mechanisms to support the States' and territories' improvement activities.

As noted above, CNMI has been determined to Need Intervention. Pursuant to section 616(d)(2)(B) of the IDEA and 34 CFR §300.603(b)(2), a State or territory that is determined to Need Intervention or Need Substantial Intervention, and does not agree with this determination, may request an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should change its determination. To request a hearing, submit a letter to John H. Hager, Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Room 5107, Potomac Center Plaza, Washington, DC 20202-2600 within 30 days of the date of this letter and provide in the letter the basis for your request.

OSEP is committed to supporting CNMI's efforts to improve results for children with disabilities and looks forward to working with CNMI 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 Lucille Sleger, your OSEP State Contact, at 202-245-7528.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education