



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

Honorable Juan P. Flores
Superintendent of Education
Guam Department of Education
P.O. Box DE
Hagatña, Guam 96932

MAR -7 2005

Dear Superintendent Flores:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) verification visit to Guam. As indicated in my letter to you of April 6, 2004, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Parts B and C of the Individuals with Disabilities Education Act (IDEA). We conducted our visit to Guam during the week of May 17, 2004.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and State-wide assessment systems to assess and improve State performance, and to protect child and family rights. The information collected through verification visits will help OSEP: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Guam Department of Education (GDOE), OSEP staff met with: Guam Director of Special Education Vincent Leon Guerrero, Assistant Administrator May Camacho, Compliance Director Peter Judicpa, Compliance Specialist Cathy Cardenas, Data Specialists Susan Hammer and Lana Leffingwell, Director of the General Supervision Enhancement Grant (GSEG), Nieves Flores, Consultant, and other members of GDOE's staff who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of State-reported data; and (3) ensuring participation in, and the reporting of student performance on, State-wide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Guam's Self-Assessment and State Improvement Plan; (2) information from the State's website regarding Guam's State-wide assessment system; (3) Guam's annual entitlement application and annual approval agreement under Title V; (4) selected GDOE monitoring reports; (5) GDOE's GSEG; and (6) IDEA Grant Awards, including Special Conditions, where applicable, for FFY 2001, FFY 2002, FFY 2003, and FFY 2004.

While on-site, OSEP and GDOE conducted a parent meeting on Thursday, May 20 to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data

collection, and State-wide Assessment. Approximately 80 parents and 10 GDOE staff attended. The meeting was facilitated by the University of Guam and was conducted in a focus-group format with four groups that reported results at the end of each discussion (general supervision, data collection and State-wide assessment).

The information that Mr. Leon Guerrero, Ms. Camacho, Mr. Judicpa and their staff provided prior to and during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of GDOE's systems for general supervision, data collection and reporting, and State-wide assessment.

GDOE has implemented a new set of general supervision and data collection procedures for both Part C and Part B special education programs. Therefore, information on Parts C and B of the IDEA will be addressed together.

General Supervision

In reviewing the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (2) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

Description of General Supervision System

GDOE staff informed OSEP that GDOE monitors its 38 schools and the Part C program on a three-year cycle, issuing reports for each school and the Part C program following the monitoring visit, generally within 30-90 days of the visit. Monitoring includes a review of due process hearing issues and results, formal written complaint resolution and mediations, on-site review of records and interviews with staff and parents. OSEP reviewed five monitoring reports, from one high school, one middle school, two elementary schools and the Part C program. Reports included corrective action plans, documentation of follow-up visits and correction of identified noncompliance within one year of identification. Each school has an assigned Consulting Resource Teacher (CRT) who provides technical assistance and training, as well as ongoing monitoring and follow-up after the cyclical monitoring.

The Guam Early Intervention System (GEIS), under GDOE, has the responsibility for ensuring Part C requirements for infants and toddlers with disabilities. GDOE staff informed OSEP that monitoring for the Part C program focuses on Part C requirements under IDEA and protocols for record reviews and interviews are tailored to the Part C requirements. As noted above, the Part C program is monitored every three years. GDOE provided OSEP the monitoring report of the Part C program that was conducted April 16-May 3, 2001. The monitoring report identified noncompliance with some of the Part C requirements regarding the provision of early

intervention services in natural environments and early childhood transition and GDOE staff reported that the noncompliance had been corrected. GDOE was in the process of monitoring the Part C program again as part of the three year cycle. Monitoring activities for the Part C program include record reviews, interviews with service coordinators and parents, shadowing the infant diagnostic team and service coordinators, playgroup observations, noting attendance at IFSP meetings, and reviews of the Family Resource Center and the GEIS internal data system. In addition to the monitoring conducted by GDOE staff every three years, the Part C coordinator regularly reviews IFSPs with service coordinators to ensure that all required components are addressed, and that accurate data is included in the Part C data system for reporting under section 618.

GDOE documents noncompliance and requires corrective action plans, and correction of noncompliance within one year of identification. Because it is a unitary system, schools do not directly receive funds for special education; therefore, sanctions do not include withholding of funds. Most available sanctions are adverse personnel actions, subject to negotiated contract agreements and confidentiality rules that, according to staff interviewed, render them ineffective, if not impossible to impose. Staff further confirmed that at this time, there are no direct sanctions available for imposition by the Office of Special Education for a school's failure to correct identified noncompliance.

OSEP cannot, without also collecting data at the local level, determine the extent to which GDOE's Part C and Part B monitoring procedures are effective in identifying and correcting identified noncompliance. OSEP is concerned about the effectiveness of GDOE's procedures for monitoring given the small number of staff available to conduct and follow up monitoring activities, the lack of an integrated data system to track issues across the island (see *Data Collection Under Section 618 of IDEA* below) and the lack of available sanctions. This issue will be addressed in greater detail in OSEP's response to Guam's Part C FFY 2001 and FFY 2002 APRs and Part B FFY 2002 APR.

GDOE cancelled their Memorandum of Understanding with the Vocational Education Division (VED) and is in the process of implementing a new agreement with VED. The Memorandum of Understanding was cancelled because of a failure to provide needed secondary transition services, resulting in few, if any, placements of exiting special education students in post-secondary education or employment situations. The new agreement requires regular and more frequent meetings between the two agencies and more specificity regarding the transition services to be provided by both agencies. During the period when there was no agreement, GDOE hired a transition coordinator and increasing numbers of exiting students have found jobs or moved to other post-secondary activities. The newly hired transition coordinator will work closely with VED to coordinate services and activities and closely monitor the implementation of the new Memorandum of Understanding.

GDOE has enhanced its due process hearing tracking system to include documented evidence of implementation of hearing officer decisions. Currently, the automated system is unable to identify timely implementation of hearing officer decisions, although CRTs and central office program staff monitor to ensure that implementation is timely. Additionally, GDOE struggles with how to capture the information in an automated system, given that some hearing officer

decisions include multiple actions with multiple implementation dates and ongoing activities not subject to closure (such as ongoing compensatory services over a number of years).

A review of complaint and due process hearing logs indicated that three formal complaints were filed under Part B of IDEA between September 2003 and January 2004. One was withdrawn, one was settled prior to a finding by the complaint investigation and the other was resolved within required timelines in 34 CFR §300.661(a) and (b)(1). From August 2003 to April 2004, 16 due process hearing requests were filed under Part B of IDEA. Most were withdrawn in favor of settlement or mediation agreements. Of those that went to hearing, all hearing officer decisions were reached within 45 days of the request for a hearing as required by 34 CFR §300.511(a) and (c). No complaints or due process decisions were filed under Part C of IDEA.

Collection of Data Under Section 618 of the IDEA

In looking at the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under Section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has identified any barriers (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably and validly collect and report data under section 618.

GDOE has developed and implemented a number of automated data systems that, taken collectively, provide all information required under Section 618 of the IDEA for both Parts C and B. Each system resides on a personal computer and these computers are not reliably networked; therefore, there is no single integrated data system. As a result, Guam is unable to reliably and accurately compile and analyze data across the various databases (e.g., due process, Student Information System (SIS), personnel, etc.) to identify and address systemic issues in a timely manner.

The underlying paper/pencil system includes several safeguards to ensure accuracy, reliability and validity. Forms generated at the building level (Part B) and provider level (Part C) are reviewed by CRTs and then again, between the CRT and the central office Program Coordinator prior to data entry. There is a single data entry person who enters all the data into the systems. The Program Coordinators, including for Part C, review the entered data against the submissions to ensure accuracy on an ongoing basis.

Because Guam is a unitary system, there is not a need to provide guidance to any local entities. However, Guam is contending with several data-related issues, as follows:

1. The need to integrate the data systems into a single system residing on a single server in order to reliably and accurately compile and analyze data across the various databases (e.g., due process, SIS, personnel, etc.), allowing GDOE to identify and address systemic issues in a timely manner;

2. The need to either integrate special education data into SIS used for all children on the island, or create the ability within SIS to access the special education information, on a need-to-know basis, from the building level in order to aggregate and disaggregate exiting data as well as suspension and expulsion data; and
3. Integrating alternate assessment data into the State-wide accountability system (see *State-wide Assessment* below).

While existing mechanisms ensure the reliability, validity and accuracy of data, the combining of the data systems into a single, integrated data system would improve efficiency and allow GDOE to better utilize the data to make performance and compliance determinations.

State-wide Assessment

In looking at the State's system for State-wide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for State-wide assessment that meet the participation, alternate assessment, and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provides clear guidance and training to public agencies regarding those procedures and requirements; (3) monitors local implementation of those procedures and requirements; and (4) reports on the performance of children with disabilities on those assessments, in a manner consistent with those requirements. In order to better understand your system for State-wide assessment, OSEP also discussed with your staff how the alternate assessment is aligned with grade-appropriate content standards.

GDOE has utilized the Stanford Achievement Test, 9th Edition (SAT9), as their State-wide assessment mechanism. They are moving in the coming year to the SAT10. The SAT9 (or 10) includes the "standard" version of the assessment and an alternative version that includes modifications and accommodations. Guam's alternate assessment is based on a portfolio review; which is aligned with children's individualized education programs (IEPs). Results of the portfolio assessment are not standardized, or scored against a standardized rubric. GDOE reported to OSEP, during the verification visit, that children with disabilities who participate in the State-wide assessment (with or without modifications and accommodations) are included in the State-wide accountability system. Children who participate in the alternate assessment are not included in the State-wide accountability system.

GDOE staff reports to OSEP that they have provided training and guidance regarding participation in State-wide assessments, and expressly required that all children with disabilities participate in each of the general assessments in which nondisabled children participate, unless the IEP team determines that participation in the general assessment, with or without accommodations, is not appropriate for a specific student and determines that the student will participate in the alternate assessment. GDOE staff is confident that all children with disabilities who can participate in the State-wide assessment, with or without accommodations are, in fact, participating. OSEP cannot determine, without collecting data at the school level, whether all children with disabilities who should be participating in the State-wide assessment are participating.

Reporting on the Performance of Children with Disabilities on Alternate Assessments

The Part B regulations require, at 34 CFR §300.139(a), that the State must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children: (1) the number of children with disabilities in regular assessments and in alternate assessments; and (2) the performance of those children if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children. Because Guam has not yet reported publicly and to the Secretary on the participation and performance of children with disabilities in alternate assessments, as required at 20 U.S.C. §1412(a)(17) and 34 CFR §300.139(a), the Department imposed Special Conditions on Guam's FFY 2004 grant award under Part B of IDEA. The FFY 2004 Special Conditions set forth in Enclosure B of the November 22, 2004 grant award letter require Guam to report to the Secretary and the public on the participation and performance of children with disabilities who take alternate assessments by May 30, 2005. As part of the Special Conditions, Guam was required to submit to OSEP by December 30, 2004 a written plan detailing the steps and timelines for reporting publicly and to the Secretary on the participation and performance of children with disabilities taking the IEP-based alternate assessments by May 30, 2005. Guam has not yet submitted this plan.

During the verification visit to Guam, it was brought to OSEP's attention that the SAT- 9 Alternate Assessment reported in Tables 50, 51, 52, 53, 54, and 55, of the Annual School Program Report, is the SAT- 9 with accommodations and modifications, and that the alternate assessment for children with disabilities who cannot take the State-wide assessment, i.e., the SAT-9, is an individualized education program (IEP)-based alternate assessment that is a portfolio review aligned with the child's IEP. Guam has not reported publicly or to the Secretary on the participation or performance of students with disabilities taking the IEP-based alternate assessment.

It has come to our attention that on its website Guam reports on the performance of students on the SAT9 at the district and school level (this information was found on the website in a few places: under School Report Card, in the District and School Annual Report Cards, and under Statistics for SAT 9, in the District and individual school's performance levels). However, these reports do not disaggregate the data on the performance of children with disabilities on the regular assessment and do not report on the performance of students taking the IEP-based alternate assessment. As stated above, the plan must detail the steps that Guam will take to ensure that it is reporting on the participation and performance of children with disabilities taking the IEP-based alternate assessment. In addition, because Guam is reporting on the performance of students on the SAT9 at the district and school level, the plan must also detail the steps that Guam will take to ensure that it is reporting, at the district and school level, on the performance of students with disabilities taking the regular assessment and the performance of students taking the IEP-based alternate assessment, where the reporting would not result in the disclosure of performance results identifiable to individual children.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with Guam as you continue to work to improve results for children with disabilities and their families.

Sincerely,

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

Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: Vince Leon Guerrero