



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

JAN 14 2005

Honorable Midion Gideon Neth  
Acting Secretary  
Department of Health, Education, and  
Social Affairs  
PS70, Palikir, Pohnpei State, FSM 96941

Dear Mr. Neth:

The purpose of this letter is to respond to the Federated States of Micronesia's (FSM's) April 3, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed States to address five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

### ***Background***

FSM submitted its Part B Self-Assessment (SA) in May 2003 and its FFY 2002 APR on April 3, 2004, along with its "Individual State and National CIMP Improvement Plan Priorities" (IP). Included were a National Self-Assessment and a self-assessment for each of the four States of the FSM. Verbal feedback was given to FSM staff during OSEP's Annual Leadership Conference in Washington, D.C. in May 2004. FSM receives the Special Education Programs for Pacific Island Entities (SEPIIE) grant from OSEP to provide special education and related services for Part B eligible children with disabilities. Although FSM does not receive Part C funds, FSM National Public Law 8-21 mandates appropriate special education and related services for eligible children with disabilities birth through 21.

The State's APR should reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the

cluster areas (as well as any other areas identified by the State to ensure improvement). OSEP's comments regarding FSM's SA, IP and the APR are listed by cluster area.

### ***General Supervision***

#### **Timely Identification and Correction of Noncompliance**

The SA and FFY 2002 APR included data and information that indicated the following area of noncompliance: FSM was unable to ensure that all educational programs for children with disabilities met Part B requirements as required by 34 CFR §300.600. On pages 2 through 4 of the FFY 2002 APR, FSM described its current monitoring system. FSM indicated that during 2002-2003 it transitioned to a Continuous Improvement Monitoring Process (CIMP) that included SAs from the four Island States. FSM also stated that its monitoring system included annual verification visits to each Island State to review FMS Program Standards. However, page 5 of the SA noted that "evidence of completion or consequences for non-completion of goals and activities was not clearly documented with follow-up actions." The SA included information that indicated that the National Government did not exercise adequate general supervisory authority over the Island States. For example, the National SA at Tab 1, page 10 stated that the Special Education Handbook, National Mandate, and Eligibility Document needed to be updated to meet all Part B requirements. The Pohnpei SA indicated that there are unresolved issues remaining from the last two monitoring reports.

FSM did not respond to the probe: "Do general supervision instruments and procedures used by the SEA, identify and correct IDEA noncompliance in a timely manner?" or provide any data regarding its verification visits. In its next APR, FSM must submit data to OSEP, along with analysis and a determination of compliance or noncompliance regarding Part B monitoring requirements. If data are not available, FSM must include a plan in the next APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

#### **Identification and Remediation of Systemic Issues Through the Analysis of Data From All Available Sources, Including Monitoring**

FSM addressed issues identified in its SA, resulting in an IP that FSM included with its FFY 2002 APR. However, as noted above, FSM did not include monitoring data to support the conclusions in the SA or IP. From data and information provided in the FFY 2002 APR, OSEP could not determine performance in this area. In the next APR, FSM should include information describing how it utilizes data from all available sources, including monitoring, to identify and remediate systemic issues throughout the Federated States.

#### **Dispute Resolution System Ensures that Complaint Investigations, Mediations, and Due Process Hearings and Reviews are Completed in a Timely Manner**

Page 4 of the FFY 2002 APR reported that there have been no complaint investigations, mediations, or due process hearings in the FFY 2002 reporting period: Page 4 of the FFY 2002 APR states "it is unclear as to whether no requests have been [made] due to parents understanding but not initiating requests, or that the lack of information provided to parents and

staff regarding the process resulted in no complaint, mediation, or due process requests.” From data and information provided by FSM in the FFY 2002 APR, OSEP could not determine compliance or performance with 34 CFR §§300.503-300.504. In the next APR, FSM should include data and its analysis, along with a determination of compliance or noncompliance in this area. If the data demonstrates noncompliance, the State must 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 accepts the plan. If data is not available, FSM should include a plan in the FFY 2003 APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

#### A Sufficient Supply of Personnel Available to Meet the Needs of All Children with Disabilities

The analysis of FSM’s current teaching and related service personnel numbers and educational levels presented in the SA and the FFY 2002 APR indicated that children with disabilities might not receive a free appropriate public education. Page 7 of the FFY 2002 APR reported that over half of the 2,000 teachers in the FSM have not had basic teacher training courses. FSM stated on page 6 of the FFY 2002 APR that only 54% of teaching positions were filled by fully-certified teachers who met the FSM certification standards of an Associate’s Degree. In two Island States, about two-thirds of the teachers did not meet minimum certification requirements. All four of the Island State SAs indicated personnel was an area that “Needs Improvement” or that there was “Insufficient Data.” Page 8 of the FFY 2002 APR concluded there was a national need for certification requirements and a Comprehensive System of Personnel Development Plan (CSPD) that integrated State-level CSPD needs, as well as a data tracking system for tracking personnel needs.

In the next APR, FSM must address what effect deficiencies in numbers of qualified personnel have on the provision of appropriate special education and related services to children with disabilities in accordance with their IEPs, including data and analysis along with a determination of compliance or noncompliance. If the data indicate noncompliance, FSM must submit a plan including strategies, proposed evidence of change, targets and timelines designed to ensure the provision of FAPE for children with disabilities consistent with 34 CFR §300.300 no later than one year after OSEP accepts the plan. If data are not available, FSM must include a plan that describes how FSM will collect data to be able to determine compliance or noncompliance in this area for the FFY 2004 APR.

#### Collection and Reporting of Accurate and Timely Data

On page 9 of the FFY 2002 APR, FSM indicated that it had not previously submitted 618 data because it was not required by OSEP as part of the SEPIIE grant process. FSM’s first submission of 618 data was for the 2002-2003 school year. FSM stated, on page 10 of the FFY 2002 APR, that it was developing a comprehensive data system to ensure the collection and timely reporting of accurate data. OSEP accepts these strategies. FSM must provide evidence of correction of the noncompliance, including supporting data and analysis, in the next APR.

Other Areas: Interagency Agreements

The National SA indicated that there was a need for guidance at the National level for interagency agreements. The SA did not provide data to demonstrate its service delivery to incarcerated youth with disabilities in correctional facilities or that appropriate special education and related services were provided to children with disabilities served in out-of-district placements. The Pohnpei, Kosrae, and Yap SAs stated there was a need to review and revise interagency agreements that they each had with other agencies. From data and information provided by FSM in the FFY 2002 APR, OSEP could not determine performance or compliance with 34 CFR §300.142. In the next APR, FSM must include evidence that all necessary interagency agreements meet requirements.

Other Areas: Child Find

The Self-Assessment indicated that only 7 percent of the children in Yap State and 6 percent of the children in Chuuk State were identified and receive special education and related services. Low identification percentages for special education may suggest that FSM does not have an effective system to identify, locate and evaluate children who may be in need of special education and related services. The National SA acknowledged a need for earlier identification and intervention for children with disabilities. This suggested there might be issues in the FSM regarding the implementation of the child find requirements at 34 CFR §§300.125 and 300.300(a)(1) because children with disabilities may not be identified and evaluated at an early age in order to ensure a free appropriate public education. From data and information provided by the State in the FFY 2002 APR, OSEP could not determine performance or compliance in this area. In the next APR, FSM should include data and its analysis, along with a determination of compliance or noncompliance in this area. If the data demonstrate noncompliance, the State must 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 accepts the plan. If data are not available, FSM should include a plan in the APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

***Early Childhood Transition***

FSM noted that, although it did not receive Part C funding, services were provided to children with disabilities from birth through age 21 by a National mandate. Compulsory education begins at age six or the first grade. On page 12 of the FFY 2002 APR, FSM stated that, “transition” was likely to begin from home services to Head Start or preschool services at age four. FSM concluded, “there exist unclear processes for serving these young children.” FSM did not provide any data regarding the number of preschool children (age three and older) who received special education and related services. FSM included a number of strategies, targets and timelines designed to improve the transition of young children into school-based special education services. OSEP looks forward to reviewing the results of implementation of these strategies in the next APR.

### ***Parent Involvement***

On page 14 of the FFY 2002 APR, FSM presented some data regarding parent participation, including some survey and membership data. The Island State SAs noted a need for “improvement” in supporting the active participation of parents. FSM included strategies and timelines designed to improve parent involvement in their children’s education and their participation in steering committees and other activities. OSEP looks forward to reviewing the results of these activities in the next APR.

### ***Free Appropriate Public Education in the Least Restrictive Environment***

#### **Disproportionality**

On page 17 of the FFY 2002 APR, FSM reported that all children with disabilities served fell under the “Asian or Pacific Islander” ethnicity category.

#### **Graduation and Dropout**

As noted above, 2002-2003 was the first year FSM submitted this data. FSM stated, on page 10 of the FFY 2002 APR, that it was developing a comprehensive data system to collect accurate and timely data for graduation and drop-out data on children with disabilities. In the next APR, FSM must include data and its analysis of graduation and drop-out data. If data are not available, FSM must include a plan in the next APR that describes how FSM will collect the data.

#### **Suspension and Expulsion**

FSM stated, on page 10 of the FFY 2002 APR, that it was developing a comprehensive data system to collect accurate and timely data for the suspension and expulsion of children with disabilities. In the next APR, FSM must include data and its analysis, along with a determination of compliance or noncompliance with 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 among public agencies. 34 CFR §300.146 requires that States examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities either among LEAs in the State or compared to the rates for nondisabled children within the agencies. Where the State determines that significant discrepancies are occurring, it must 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 comply with Part B. The instructions to the 2002 APR direct States to describe which of these comparisons it did, as well as the method the State used to determine possible discrepancies, what constitutes a discrepancy, the number of agencies with significant discrepancies, and, if significant discrepancies are occurring, a description of those discrepancies and how the State plans to address them. The State’s 2002 APR, however, did not include any information indicating that the State had examined data from the LEAs that it used in

assembling the State level data to determine whether significant discrepancies were occurring in the LEAs based on either one of comparisons described above. In the next APR, the State must include the information required by the instructions. If the 2003 APR does not include information indicating that the State has examined all data for all LEAs to determine whether significant discrepancies are occurring in the LEAs based on either one of comparisons described above, and that when it identifies significant discrepancies it reviews and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures and practices consistent with 34 CFR §300.146, then OSEP will conclude that the State is not complying with the regulation.

#### Performance of Children with Disabilities on State-Wide Assessments

As set forth at 34 CFR §§300.138 and 300.139, FSM must ensure that children with disabilities are included in State-wide assessments, provide an alternate assessment for those children with disabilities who cannot participate in all, or part of, the State-wide assessments and report their performance to the Secretary and the general public with the same frequency and in the same detail as it reports on the assessment of nondisabled children. The information presented in the SA and FFY 2002 APR indicated that FSM did not ensure that all children with disabilities participated in the State-wide general or alternate assessment programs. Page 21 of the FFY 2002 APR stated that a mechanism for tracking the performance of children with disabilities was not in place. All four Island SAs indicated that there were no children with disabilities participating in alternate assessment programs. FSM's IP set a goal of developing guidelines for the participation of children with disabilities in the State-wide and alternate assessments. In the next APR, FSM must include data and analysis, along with a determination of compliance or noncompliance in this area. If the data demonstrate noncompliance, the State must 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 accepts the plan. If data are not available, FSM must include a plan in the next APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

#### Children with Disabilities Educated with Nondisabled Peers to the Maximum Extent Appropriate

On page 22 of the FFY 2002 APR, FSM reported that approximately 90% of school-age children with disabilities were in the general education setting most of the day. For the 3-5 age group, 48% of the preschoolers with disabilities received services in an early childhood special education setting. The SA indicated that there are limited opportunities regarding placement for many children with disabilities. 34 CFR §300.552(b)(2) requires that the placement of children with disabilities be based on the child's needs as required by the IEP. This information indicated that children with disabilities might not be receiving the special education and related services based on their needs because of limited services and/or placement options. In the next APR, FSM should include data and analysis, along with a determination of compliance or noncompliance with 34 CFR §300.552(b)(2). If the data demonstrate noncompliance, the State must 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 accepts the plan. If data are not available, FSM should include a

plan in the APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

Early Language/Communication, Pre-reading, and Social-Emotional Skills of Preschool Children with Disabilities

FSM stated, on page 23 of the FFY 2002 APR, that data on early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities were not readily available. Pre-reading, and social-emotional skills were “not readily available.” In the FFY 2003 APR, FSM should either submit documentation of data (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 for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

***Secondary Transition***

Page 25 of the FFY 2002 APR indicated that, although increasing numbers of students with disabilities were participating in high school programs, further educational alternatives needed to be developed to expand the secondary programs. The SA stated that there is no established process for collecting data related to the provision of transition services and planning. In addition, the SA reported there was not sufficient data available to indicate that: (a) transition services were included in IEPs; (b) transition services were provided to children with disabilities in accordance with their IEPs; and (c) interagency agreements regarding the provision of transition services were implemented. From data and information provided by the State in the FFY 2002 APR, OSEP could not determine compliance or performance with 34 CFR §§300.347(b) and 300.348(b). In the next APR, FSM must include data and its analysis, along with a determination of compliance or noncompliance in this area. If the data demonstrate noncompliance, the State must 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 accepts the plan. If data are not available, FSM should include a plan in the next APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

***Conclusion***

In the FFY 2003 APR, FSM must:

- (1) 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 also must include data and analysis along with a determination of compliance or noncompliance regarding Part B monitoring requirements. If data are not available, FSM must include a plan in the FFY 2003 APR that describes how FSM will collect data to enable it to determine compliance or noncompliance.

- (2) include information describing how it utilizes data from all available sources, including monitoring, to identify and remediate systemic issues throughout the Federated States.
- (3) address what effect deficiencies in numbers of qualified personnel have on the provision of appropriate special education and related services to children with disabilities in accordance with their IEPs, including data and analysis along with a determination of compliance or noncompliance. If the data indicate noncompliance, FSM must submit a plan including strategies, proposed evidence of change, targets and timelines designed to ensure the provision of FAPE for children with disabilities consistent with 34 CFR §300.300 no later than one year after OSEP accepts the plan. If data are not available, FSM must include a plan that describes how FSM will collect data to be able to determine compliance or noncompliance in this area for the FFY 2004 APR.

In the next APR, FSM must:

- (1) provide evidence of correction of noncompliance relating to accurate and timely data to be submitted under section 618 of IDEA; and
- (2) demonstrate that all needed interagency agreements meet the requirements of 34 CFR §300.142.

In the next APR, FSM also must include data and its analysis, along with a determination of compliance or noncompliance in the following areas. If the data demonstrate noncompliance, the State must 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 accepts the plan. If data are not available, FSM must include a plan in the next APR that describes how FSM will collect data to enable it to determine compliance or noncompliance for:

- (1) requirements of 34 CFR §§300.125 and 300.300(a)(1) regarding child find and the provision of FAPE;
- (2) requirements of 34 CFR §§300.138 and 300.139 regarding the participation and performance of children with disabilities in State-wide assessments and alternate assessments, along with reporting publicly and to the Secretary on this participation and performance;
- (3) requirements of 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
- (4) requirements of 34 CFR §§300.347(b) and 300.348(b) regarding the documentation and provision of secondary transition services for children with disabilities.

In the next APR, FSM must include data and its analysis, along with a determination of compliance or noncompliance with 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 among public agencies. Where the State determines that significant discrepancies are occurring, it must 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 comply with Part B.

In the next APR, OSEP looks forward to reviewing data collected through FSM's new comprehensive data collection system for graduation and drop-out data on students with disabilities.

In the next APR, FSM must either submit documentation of data 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 for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and we look 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 Lucille Sleger at (202) 245-7528.

Sincerely,



Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Mr. Makir Keller