



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

July 1, 2020

Honorable Sinton Soalablai
Minister of Education
Republic of Palau Ministry of Education
Post Office Box 6051
Koror, Republic of Palau 96940

Dear Minister Soalablai:

We have conditionally approved the Republic of Palau's (ROP) for Federal Fiscal Year (FFY) 2020 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our conditional approval is based on our review of the IDEA Part B application submitted by the ROP Ministry of Education to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 15, 2020 including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. Our approval is also based on the ROP's certification in Section II.D of its FFY 2020 application (Enclosure B), signed by Director of Curriculum and Instruction Debbie Tkei-Sbal on May 14, 2020, that the ROP's provisions meet the requirements of IDEA Part B as found in Public Law 108-446, and that the ROP will operate its Part B program in accordance with all of the required assurances and certifications, consistent with 34 CFR §76.104

In addition, the ROP provided specific assurances that it will:

1. Operate throughout the period of the FFY 2020 grant award consistently with IDEA Part B and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of IDEA Part B as soon as possible, and not later than June 30, 2021. Within Section II of its application, the ROP has included, for each assurance it cannot meet at this time, the date by which it expects to complete necessary changes to any policies and procedures that are not yet in compliance with the requirements of IDEA Part B.

Please note that OSEP Memorandum 20-01, dated January 23, 2020, explained the impact of recent amendments to the Copyright Act, 17 U.S.C. § 121, on certain terms relevant to Assurance 23a or 23b related to accessible instructional materials as reflected in your FFY 2020 application for funds under IDEA Part B. As a result, the term "blind and other persons with print disabilities" has been removed from the Copyright Act and replaced with "eligible person," and the term "specialized format" has been removed and replaced with the term "accessible format." Although at this time Congress has not made conforming amendments to section 612(a)(23) of IDEA, the Department construes Assurances 23a and 23b as incorporating the terms "eligible person" and "accessible format."

ROP's FFY 2020 IDEA Part B grant award is being released subject to a Specific Condition as set forth in Enclosure D pursuant to the Department's authority in section 616(g) of IDEA and 2 CFR §200.207. This Specific Condition is imposed because ROP does not have policies and procedures in place by June 30, 2020 that meet the requirements for qualifications for special education teachers in section 612(a)(14)(C) of IDEA and 34 CFR §300.156(c). The reasons for imposing this Specific Condition and the nature of the Specific Condition are detailed in Enclosure D.

In a specific assurance dated May 14, 2020, the ROP assured that it will, consistent with existing practice, submit foreign travel requests to OSEP 60 days prior to the start of foreign travel using IDEA funds exceeding \$6000 per individual traveler or \$25,000 in aggregate costs for foreign travel. The requests for foreign travel will include the following information: (1) information related to the person(s) traveling, including name(s), job title(s), and relevant information related to job duties and role within the Freely Associated State (FAS); (2) a description of the destination and purpose of the travel, and any related supporting documentation (e.g., conference information, agendas); (3) a description of the travel costs, and any supporting documentation related to them (e.g., documents related to transportation, lodging, per diem costs); and (4) an explanation of how the travel enhances the Freely Associated State's capacity to provide a free and appropriate public education.

Please note that as part of your application for FFY 2020, the ROP has made an assurance, pursuant to 34 CFR §76.104, that its application meets the requirements of IDEA Part B and that the ROP will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by the ROP, after OSEP approval, to information that is a part of the ROP's application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed is the ROP's FFY 2020 grant award for funds currently available under Title III of Division A of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by States and entities from July 1, 2020, through September 30, 2022, in accordance with 34 CFR §76.709.

The amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2020. Of the \$12,764,392,000 appropriated for Section 611 in FFY 2020, \$3,481,009,000 is available for awards on July 1, 2020, and \$9,283,383,000 will be available for awards on October 1, 2020. Under the Section 611 formula, the Secretary reserves not more than one percent of the amount appropriated for FFY 2020 to provide assistance to the outlying areas in accordance with their respective populations of individuals aged three through 21 and to provide each freely associated State a grant in the amount that such freely associated State received in fiscal year 2003 under Part B of the IDEA.

Enclosure C provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure C shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA Section 618(a)(3), the ROP was required to submit data on the total amount of the State's financial support made available for special education and related services for children with disabilities in ROP's State fiscal year (SFY) 2018 and SFY 2019. If OSEP receives information through audits, fiscal

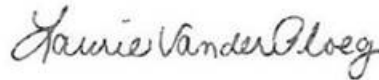
monitoring or other means that raises questions about the data the ROP has provided in Section V, OSEP will follow-up with the ROP.

Section 604 of the IDEA provides that “[a] State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this [Act].” Section 606 provides that each recipient of assistance under the IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant, the ROP is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant awards of FFY 2020 funds are made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part B.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,



Laurie VanderPloeg

Director

Office of Special Education Programs

Enclosures

Enclosure A (Sections II.A-C. of the State’s application)

Enclosure B (Section II.D. of the State’s application)

Enclosure C

Enclosure D – (Programmatic Specific Conditions)

cc: State Director of Special Education

State Name: Republic of Palau (ROP)

Enclosure A

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<p>Yes <i>(Assurance is given.)</i></p>	<p>No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i></p>	<p>Assurances Related to Policies and Procedures</p>
<p>X</p>		<p>1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.</p>
<p>X</p>		<p>2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)</p>
<p>X</p>		<p>3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.</p>
<p>X</p>		<p>4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)</p>
<p>X</p>		<p>5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes,</p>

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
	X May 2021	14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
X Refer to Attached Chafee Amendment		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement


I certify that the State of Republic of Palau can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. (34 CFR § 76.104)

I, the undersigned authorized official of the

Republic of Palau, Ministry of Education
(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2020 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State: Debbie Tkel-Sbal, Director, Bureau of Curriculum and Instruction Ministry of Education, Republic of Palau	
Signature: 	Date: 5/14/2020

Enclosure C
IDEA Grants to States Program
(Part B, Section 611)

Explanation of the Federal Fiscal Year (FFY) 2020 Allocation Table

Total Grant Award (Column B)

Column B shows your total grant award for the Grants to States program for FFY 2020 under Title III of Division A of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94).

State total grants are calculated in accordance with several factors. First, each State is allocated an amount equal to the amount that it received for fiscal year 1999. If the total program appropriation increases over the prior year, 85 percent of the remaining funds are allocated based on the relative population of children aged 3 through 21 who are in the age range for which the State ensures the availability of a free appropriate public education (FAPE) to children with disabilities. Fifteen percent of the remaining funds are allocated based on the relative population of children aged 3 through 21 living in poverty who are in the age range for which the State ensures the availability of FAPE to children with disabilities. The statute also includes several maximum and minimum allocation requirements when the amount available for distribution to States increases.

If the amount available for allocation to States remains the same from one year to the next, States receive the same level of funding as in the prior year. If the amount available for allocation to States decreases from the prior year, any amount available for allocation to States above the fiscal year 1999 level is allocated based on the relative increases in funding that the States received between fiscal year 1999 and the prior year. If there is a decrease below the amount allocated for 1999, each State's allocation is ratably reduced from the fiscal year 1999 level.

Section 611 Base Allocation to LEAs (Column C)

Column C is the portion of the local educational agency (LEA) flow-through amount that must be distributed to LEAs based on the amounts that the LEAs would have received from FFY 1999 funds had the State educational agency (SEA) flowed through 75 percent of the State award to LEAs. Note that this amount is less than the minimum amount that States were required to provide to LEAs from FFY 1999 funds. The Part B regulations at 34 CFR §300.705(b)(2) clarify how adjustments to the base payment amounts for LEAs are made.

Maximum Set-Aside for Administration (Column D)

Column D includes the maximum State set-aside amount for administration. A State may reserve for State administration up to the greater of the maximum amount the State could reserve for State administration from fiscal year 2004 funds, or \$800,000, increased by inflation as reflected by the Consumer Price Index for All Urban Consumers (CPIU). The maximum State set-aside amount available for administration for FFY 2020 is a 2.0 percent increase over the maximum amount that was available for FFY 2019. Each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under this program or \$35,000, whichever is greater.

Maximum Set-Aside Available for Other State-Level Activities (Columns E - H)

The maximum level of funding that may be set aside from a State's total allocation for State-level activities, other than administration, is contingent upon the amount that the State actually sets aside for administration and whether the State opts to establish a LEA high-risk pool under IDEA, section 611(e)(3). For FFY 2020:

- (1) If the actual amount a State will set aside for State administration is over \$850,000 and the State will use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 10.0 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (2) If the actual amount a State will set aside for State administration is over \$850,000 and the State will not use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 9.0 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (3) If the actual amount a State will set aside for State administration is \$850,000 or less and the State will use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 10.5 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (4) If the actual amount a State will set aside for State administration is \$850,000 or less and the State will not use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 9.5 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.

SEAs are required to use some portion of these State set-aside funds on monitoring, enforcement, and complaint investigation and to establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel. In addition, States setting aside funds for a high-risk pool, as provided for under section 611(e)(3), must reserve at least 10 percent of the amount the State reserved for State-level activities for the high-risk pool.

SEAs also may use State set-aside funds: (1) for support and direct services, including technical assistance, personnel preparation, and professional development and training; (2) to support paperwork reduction activities, including expanding the use of technology in the individualized education program process; (3) to assist LEAs in providing positive behavioral interventions and supports and mental health services to children with disabilities; (4) to improve the use of technology in the classroom by children with disabilities to enhance learning; (5) to support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities; (6) for development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities; (7) to assist LEAs in meeting personnel shortages; (8) to support capacity building activities and improve the delivery of services by LEAs to improve results for children with disabilities; (9) for alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools; (10) to support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities,

in accordance with sections 1111(b) and 1201 of the Elementary and Secondary Education Act of 1965 (ESEA); and (11) to provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA to children with disabilities, in schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 1111(b)(1) of the ESEA.

Section 611 Population/Poverty

The minimum amount that a State must flow through to LEAs based on population/poverty equals the total award (Column B) minus the LEA base allocation (Column C), the maximum amount available for administration (Column D), and the maximum amount available for other State-level activities (Column E, F, G, or H). Of this amount, 85 percent must be distributed on a pro-rata basis to LEAs according to public and private elementary and secondary school enrollment, and 15 percent on a pro-rata basis to LEAs according to the number of children in LEAs living in poverty, as determined by the State.

Enclosure D
Specific Condition¹

1. Basis for Requiring a Specific Condition

Section 612(a)(14)(A) of the Individuals with Disabilities Education Act (IDEA Part B) requires each State Educational Agency to have in effect policies and procedures to ensure that the State establishes and maintains qualifications to ensure that personnel necessary to carry out IDEA Part B are appropriately and adequately prepared and trained and have the content knowledge and skills to serve children with disabilities.² 20 U.S.C. 1412(a)(14)(A) and 34 C.F.R. § 300.156(a). To meet these requirements, it is essential that special education teachers have the necessary qualifications in order to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities.

Since the IDEA was reauthorized and amended in 2004, IDEA has required all States to have in effect policies and procedures to ensure that special education teachers have specific qualifications. In 2015, when Congress passed the Every Student Succeeds Act (ESSA) and amended several provisions of IDEA, these special education teacher qualification requirements were retained, but were moved from the former Section 602(10)(b) to Section 612(a)(14)(C) of IDEA. Section 612(a)(14)(C)(iii) of IDEA continues, as in the past, to require that each public-school special education teacher in elementary school, middle school, or secondary school holds at least a bachelor's degree. 20 U.S.C. 1412(a)(14)(C)(iii) and 34 C.F.R. § 300.156(c)(1)(iii). IDEA also continues to require that each public school special education teacher has obtained full State certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 C.F.R. § 200.56(a)(2)(ii) as such section was in effect on November 28, 2008), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher. 20 U.S.C. 1412(a)(14)(C)(i) and 34 C.F.R. § 300.156(c)(1)(i). Further, IDEA continues to require that a special education teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis.

20 U.S.C. 1412(a)(14)(C)(ii) and 34 C.F.R. § 300.156(c)(1)(II).

Background

In FFY 2016, the Republic of Palau (the ROP) informed the Office of Special Education Programs (OSEP) that its policies and procedures require that individuals employed as special education teachers hold an associate degree.

Because the ROP failed to submit a plan to amend its policies and procedures consistent with section 612(a)(14)(C) of IDEA, OSEP imposed a Special Condition on the ROP's

¹ Pursuant to the requirements in 2 C.F.R. § 200.207, the term "Specific Condition" is used, rather than "Special Condition" for an FFY 2018 IDEA Part B grant award that was issued subject to additional requirements. In this Enclosure, the term "Special Condition" is used when referencing the State's IDEA Part B grant award and required reporting associated with the receipt of those funds for FFY 2017.

² As used in this enclosure, the term "State" refers to the Republic of Palau (The ROP).

FFY 2017 IDEA Part B grant award pursuant to the authority in IDEA section 616(g) and 2 C.F.R. § 200.207. Subsequently, because the ROP did not make conforming amendments to its policies and procedures governing qualifications for special education teachers in FFYs 2017 and 2018 consistent with section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c) and did not meet the terms and conditions of its prior grant awards, OSEP continued to release the ROP's FFY 2018 and 2019 IDEA Part B grant awards with a Specific Condition pursuant to the authority in IDEA section 616(g) and 2 C.F.R. § 200.207.

The Specific Condition imposed on the ROP's FFY 2019 IDEA Part B Grant award required the ROP to submit revised special education teacher qualifications policies and procedures to be in place by June 30, 2020 that meet the requirements in section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c). These policies and procedures were to specify that all persons employed as special education teachers in public elementary and secondary schools in the ROP hold at least a bachelor's degree, that provisional certificates are only awarded to persons employed as special education teachers in public schools in the ROP who hold at least a bachelor's degree and who are working toward full certification as special education teachers, and that special education teachers hold a bachelor's degree by SY 2019-2020. As required by the ROP's FFY 2019 Specific Condition, the ROP submitted revised draft policies and procedures on October 30, 2019.

After careful review, OSEP has determined that those draft policies and procedures do not satisfy IDEA's personnel qualifications requirements. Specifically, granting a "restricted certification" to a special education teacher with an associate degree, under the supervision of a certified special education teacher with a bachelor's degree as described in the ROP draft policies and procedures, does not fulfill the requirements of section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c), because, as noted above, special education certification or licensure requirements cannot be waived on an emergency, temporary, or provisional basis and special education teachers must hold at least a bachelor's degree. However, if special education teachers who receive "restricted certificates" hold bachelor's degrees and are working toward full certification as special education teachers, including by participating in an alternate route to certification that meets minimum requirements in 34 C.F.R. § 200.56(a)(2)(ii)³, the use of these "restricted certificates" would be consistent with section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c).

Because the ROP has not satisfied the Specific Condition imposed on its FFY 2019 IDEA Part B grant award and has not met the terms and conditions of its prior grant award, pursuant to the authority in IDEA section 616(g) and 2 C.F.R. § 200.207, OSEP is imposing a Specific Condition on the ROP's FFY 2020 IDEA Part B grant award.

³ Under 34 C.F.R. § 300.156(c)(2), an alternate route to certification meets the requirements in 34 CFR §200.56(a)(2)(ii) if the teacher: (1) receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching; (2) participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; (3) assumes functions as a teacher only for a specified period of time not to exceed three years; and (4) demonstrates satisfactory progress toward full certification as prescribed by the State.

Nature of the Specific Condition

Pursuant to the Specific Condition, the ROP must continue to report on its actions to achieve compliance by: revising its policies and procedures governing special education teacher qualifications to meet the requirements in section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c). These policies and procedures, which must be in place by June 30, 2021, must require: (A) all persons employed as public school special education teachers who teach in elementary school, secondary school, or middle school hold at least a bachelor's degree, consistent with section 612(a)(14)(C)(iii) of IDEA and 34 C.F.R. § 300.156(c)(1)(iii); and (B) all individuals employed as special education teachers in the ROP obtain full certification as a special education teacher, including participating in an alternate route to certification as a special educator if such alternate route meets minimum requirements described in 34 C.F.R. § 200.56(a)(2)(i).

Specifically, a teacher will be considered to meet the standard in 34 C.F.R. § 300.156(c)(1)(i) if that teacher is participating in an alternate route to special education certification program that satisfies the minimum requirements set forth in 34 C.F.R. § 300.156(c)(2), quoted in footnote 3 above. The ROP must implement these revised policies and procedures by the beginning of SY 2021-2022.

Required Submissions

OSEP requires the ROP to:

- 1) Submit to OSEP for approval by September 1, 2020, revised special education teacher qualifications policies and procedures that meet the requirements in Section 612(a)(14)(C) of IDEA and 34 C.F.R. §300.156(c), described above.
- 2) Subject to OSEP's approval of the revised special education teacher qualifications policies and procedures, the ROP must submit with its FFY 2019 SPP/APR, due to OSEP by February 1, 2021, a plan for implementing the ROP's revised policies and procedures by the beginning of SY 2021-2022, including the date by which the ROP's policies and procedures will be approved by the Palau National Congress; and
- 3) To enable OSEP to assess the ROP's progress, the ROP must submit a Progress Report by May 1, 2021, that includes plans for the ROP's implementation of its approved special education teacher qualifications policies and procedures by SY 2021-2022.

The parties may modify the schedule for the May 1, 2021 Progress Report by mutual, written agreement.

OSEP reminds the ROP of its responsibility to take prompt action to fully address the special education teacher qualifications requirements in section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c) so that it no longer becomes necessary for OSEP to release the ROP's IDEA Part B grant award with this Specific Condition.

3. Evidence Necessary for the Specific Condition to Be Removed

The Department will remove the Specific Condition if, at any time prior to the expiration of the FFY 2020 grant year, the ROP provides documentation, satisfactory

to the Department, that it has met the requirements in Section 612(a)(14)(C) of IDEA and 34 C.F.R. § 300.156(c), set forth above.

4. Method of Requesting Reconsideration

The ROP can write to OSEP's Director, Laurie VanderPloeg, at the address below, if it wishes the Department to reconsider any aspect of this Specific Condition. The request must describe in detail the changes to the Specific Condition sought by the ROP and the reasons for those requested changes.

5. Submission of Reports

The ROP must submit all required reports under the Specific Condition to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Genee Norbert
550 12th St., SW
Washington, DC 20202-2550

Or by email at: Genee.Norbert@ed.gov