



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

December 7, 2016

Honorable Philo Jennings
Interim Director of Education
Post Office Box DOE
Pago Pago, American Samoa 96799

Dear Interim Director Jennings:

In my letter dated September 15, 2016, the U.S. Department of Education (Department) issued a proposed determination that American Samoa is not eligible for a portion of its grant under section 611 of Part B of the Individuals with Disabilities Education Act (IDEA) because American Samoa has failed to meet the IDEA's maintenance of State financial support (MFS) requirement in State fiscal years (SFYs) 2013, 2014, and 2015. The purpose of this letter is to inform you that this is now a final determination and that the Department will reduce American Samoa's section 611 award in Federal fiscal year (FFY) 2017 due to American Samoa's failure to maintain State financial support for special education and related services in SFYs 2013, 2014, and 2015.

As I indicated in the September 15, 2016 letter, the IDEA provides that, when a State fails to maintain State financial support at the level required by law, the Department "shall" reduce the allocation of funds to the State under section 611 "for any fiscal year following the fiscal year in which the State fails to comply with the requirement" to maintain State financial support "by the same amount by which the State fails to meet the requirement." 20 U.S.C. §1412(a)(18)(B). In that letter, we notified you that we made a proposed determination that American Samoa is not eligible for a portion of its section 611 grant under the IDEA in the amount of \$10,353 because of its failure to maintain State financial support for special education and related services in SFY 2013; that American Samoa is not eligible for a portion of its section 611 grant under the IDEA in the amount of \$12,266 because of its failure to maintain State financial support for special education and related services in SFY 2014; and that American Samoa is not eligible for a portion of its section 611 grant under the IDEA in the amount of \$12,266 because of its failure to maintain State financial support for special education and related services in SFY 2015. 20 U.S.C. §1412(d)(2). Accordingly, the Department must reduce American Samoa's section 611 grant in the amount of \$34,885 because of American Samoa's failure to maintain State financial support in SFYs 2013, 2014, and 2015 by a total of that amount.

As discussed in our previous letter, American Samoa had 30 days from the date of the receipt of the letter to request a hearing pursuant to the procedures in 34 CFR §§300.179 through 300.183 in connection with the Department's proposed determinations to deny eligibility to American Samoa for a total of \$34,885 of its IDEA Part B section 611 grant because of its failure to maintain State financial support for special education and related services by a total of that amount in SFYs 2013, 2014, and 2015.

More than 30 days from the date of your receipt of our September 15, 2016 letter have passed. In addition, in an e-mail dated October 7, 2016, American Samoa's Special Education Director, Paulo Salavea, wrote that American Samoa has "decided not to ask for an appeal. We are fine with proposed determination letter and we look forward to a call to discuss how [the] penalty can

be assessed." As a result, the Department now considers the proposed determination final, and will reduce American Samoa's FFY 2017 IDEA Part B section 611 grant award (specifically, the section 611 funds distributed to American Samoa on October 1, 2017) by a total of \$34,885. We will contact you about assessing the penalty.

American Samoa must post this letter on the State educational agency's Web site no later than **January 9, 2017**. We look forward to our continued collaboration to ensure that children with disabilities receive the special education and related services they need to reach their full potential. If you have questions about this action, please contact Matthew Schneer at 202-245-6755, or matthew.schneer@ed.gov.

Sincerely,

/s/

Sue Swenson

Deputy Assistant Secretary, delegated the authority
to perform the functions and duties
of the Assistant Secretary