



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

JUN - 3 2010

Honorable Jesus Rivera  
Interim Secretary of Education  
Puerto Rico Department of Education  
Post Office Box 190759  
San Juan, Puerto Rico 00919-0759

Dear Interim Secretary Rivera:

Thank you for the timely submission of Puerto Rico's Federal fiscal year (FFY) 2008 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA section 616(d), Puerto Rico needs assistance in implementing the requirements of Part B of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2008 APR and revised SPP, other State-reported data, information obtained through Compliance Agreement quarterly reports, the State's submissions under any Special Conditions on the State's FFY 2009 Part B grants, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2010: Part B" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Puerto Rico include that the State's FFY 2008 data reflect: 82.6% compliance for Indicator 11 (and did not report correction of all findings); 52.8% compliance for Indicator 17, which represents a higher level of compliance from its FFY 2007 data of 50.06%; and 92.3% compliance for Indicator 20. OSEP also considered Puerto Rico's FFY 2008 data for Indicator 12, which at 38.7% represents a higher level of compliance from its FFY 2007 data of 31.1%, and that under the Department-wide Compliance Agreement, Puerto Rico is not required to demonstrate full compliance under this indicator until December 2010. The Department-wide Compliance Agreement also addresses other Part B requirements (assistive technology, initial evaluations, and reevaluations). In addition, Puerto Rico was subject to Department-wide Special Conditions and IDEA Part B Special Conditions for FFY 2009. For these reasons, we are unable to determine that Puerto Rico met requirements for FFY 2008 under IDEA section 616(d).

OSEP notes an area that reflects a high level of compliance, Indicator 16 (100%). We hope that the Puerto Rico will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the State's FFY 2008 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources), and baseline data in the State's SPP. The table also identifies, by indicator: (1) the State's reported FFY 2008 data; (2) whether such data met the State's FFY 2008 targets and reflect progress or slippage from prior year's data; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

The State's determination for the FFY 2007 APR also was needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 CFR §300.604, if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose special conditions on the State's Part B grant award.

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Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance related to Indicator 11 (timely initial evaluations), Indicator 12 (early childhood transition), and Indicator 17 (timely resolution of due process hearing requests). A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the “Technical Assistance Related to Determinations” box on the opening page of the SPP/APR Planning Calendar website at <http://spp-apr-calendar.rrfcnetwork.org/>. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator. For the indicators listed above, your State must report with its FFY 2009 APR submission, due February 1, 2011, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. The extent to which your State takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should your State not be determined to meet requirements next year. We encourage Puerto Rico to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, the State must notify the public within the State that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency’s website and distributing the notice to the media and through public agencies.

As you know, pursuant to 34 CFR §300.602(b)(1)(i)(A), the State education agency (SEA) must report annually to the public on the performance of each local educational agency (LEA) located in the jurisdiction on the targets in the SPP. Because your jurisdiction is a unitary entity (i.e., the SEA is the only LEA), you may meet this public reporting requirement by posting your FFY 2008 APR on the SEA’s website and making it available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B). If your SPP includes revisions to baseline, targets, or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on the State’s website and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

OSEP is committed to supporting Puerto Rico’s efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Diana Chang, your OSEP State Contact, at 202-245-6061.

Sincerely,



Alexa Posny, Ph.D.  
Acting Director  
Office of Special Education Programs

Enclosures

cc: State Director of Special Education