



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

OCT 16 2008

Honorable Rafael Aragunde Torres  
Secretary of Education  
Puerto Rico Department of Education  
PO Box 190759  
San Juan, PR 00919-0759

Dear Secretary Aragunde:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) November 2007 verification and focused monitoring visit to Puerto Rico and to summarize additional information reported and determinations made subsequent to that visit. As indicated in OSEP's September 6, 2007 letter to you, OSEP is conducting verification and focused monitoring 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, Part B of the Individuals with Disabilities Education Act (IDEA). CIFMS is designed to ensure compliance and improve performance with Parts B and C of IDEA in accordance with 20 U.S.C. 1416 and 1442. IDEA, as re-authorized in 2004, requires the Department to monitor States with a focus on: (1) improving educational results and functional outcomes for infants, toddlers, children, and youth with disabilities; and (2) ensuring that States meet the program requirements, particularly those most closely related to improving educational results for children with disabilities.

The purpose of the verification component of the visit is to evaluate how States use their general supervision, data collection and reporting, and fiscal management systems to assess and improve State performance, child and family outcomes, and the protection of child and family rights. During the verification visit, OSEP: (1) analyzed the components of the Puerto Rico Department of Education's (PRDE) general supervision, data collection and reporting, and fiscal management systems in order to determine the extent to which they are effective in ensuring compliance and improving performance; (2) targeted compliance and performance issues identified in Puerto Rico's FFY 2005 State Performance Plan (SPP)/Annual Performance Report (APR)<sup>1</sup>; and (3) examined issues reported through other public information (e.g., PRDE Internal Audit Report on the Bayamón Region Transportation).

Because Puerto Rico is a unitary system, OSEP also visited several schools and collected information regarding longstanding noncompliance issues. This information enhanced

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<sup>1</sup> PRDE submitted its FFY 2006 Annual Performance Report on February 1, 2008. On June 6, 2008, OSEP issued its determination letter and APR response table to PRDE. OSEP has included updated data from PRDE's FFY 2006 APR in this letter as appropriate.

OSEP's understanding of the impact of these issues at the local level and provided additional context for our discussions with central office staff.

Puerto Rico was selected for the verification visit due to its lack of demonstrated progress in addressing longstanding noncompliance issues identified in: (1) the October 25, 2004 Compliance Agreement among the Commonwealth of Puerto Rico (Commonwealth), the Puerto Rico Department of Education (PRDE) and the United States Department of Education (Department); (2) the August 13, 2004 verification letter to Puerto Rico; (3) Puerto Rico's FFY 2005 SPP/APR response table; (4) the Special Conditions attached to the FFY 2006 and FFY 2007 IDEA Part B Grant Awards; and (5) other public information (c.g., PRDE's Internal Audit report on the Bayamón Transportation). These longstanding noncompliance issues were factored into OSEP's June 6, 2008 determination, under Section 616 (d) of IDEA Part B, that Puerto Rico 'Needs Intervention' in implementing the requirements of IDEA Part B. In addition, updated information from the following sources was also reviewed in verifying Puerto Rico's progress in reaching full compliance with Part B: (1) the December 17, 2007 Memorandum of Agreement (MOA) among the Commonwealth, PRDE, and the Department and the December 17, 2007 Compliance Agreement among the Commonwealth, PRDE and the Department; (2) Puerto Rico's FFY 2006 SPP/APR submission; (3) the April 28-30, 2008 and August 4-6, 2008 site visits by members of the Department's Risk Management Team; and (4) Puerto Rico's FFY 2008 IDEA Part B grant application.

On October 24, 2004, the Commonwealth, PRDE and the Department entered into a three-year compliance agreement to address longstanding fiscal and programmatic issues pertaining to a number of Federal education programs, including IDEA-B. On December 17, 2007, a Memorandum of Agreement among these same parties was developed to govern the implementation, review, and oversight of certain activities that are currently being conducted, and will continue to be conducted, by the Commonwealth and PRDE in compliance with, and in follow up to, certain terms and conditions of the 2004 Compliance agreement, which expired on October 25, 2007. All terms and conditions of the MOA are to be met prior to its expiration on April 30, 2009. With respect to IDEA-B, the MOA requires that PRDE:

- Develop and implement procedures for ensuring that all noncompliance with IDEA requirements is identified and corrected within one year;
- Develop and, where appropriate, implement effective sanctions when noncompliance has not been corrected within one year;
- Develop and implement a strategy to maintain stability of the leadership of the PRDE special education office;
- Continue to provide training and technical assistance to staff in all regions and districts to ensure that they understand applicable Federal statutes, regulations, and guidance documents and can correct issues of noncompliance within one year of identification; and
- Ensure that special education data are maintained as part of the Student Information System (SIS).

In addition, the MOA requires PRDE to develop procedures for ensuring compliance with requirements for the equitable participation of parentally-placed private school students for all Department programs for which such requirements apply.

Further, on December 17, 2007, the Commonwealth, PRDE and the Department executed a new Compliance Agreement addressing more recent compliance issues uncovered by the Department's monitoring of Federal programs, and for which it appears that it will take more than one year to completely address. With regard to IDEA, the 2007 Compliance Agreement requires that PRDE:

- develop individualized education programs (IEPs) for all children transitioning from Part C to Part B of the IDEA, and provide special education and related services by each child's third birthday (see 34 CFR §300.124);
- complete all evaluations and reevaluations within required timelines and eliminates the backlogs of students with disabilities needing evaluations to determine eligibility for special education and related services (see 34 CFR §§300.300 through 300.311);
- provide children served under the IDEA with needed assistive technology devices and services in a timely manner, and eliminate the backlog of students needing such services and devices (see 34 CFR §300.105);
- resolve complaints within the required 60-day timeline (34 CFR §300.152(a)), or within the timeframe of an extension obtained under 34 CFR §300.152(b);
- complete all due process hearings, as set forth under 34 CFR §300.515, within the required timelines;
- resolve financial management issues, including addressing and resolving the use-of-funds requirements related to transportation contracts (see 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a));
- submit timely and accurate data required under sections 616 (State Performance Plan/Annual Performance Report) and 618 (State-reported data) of the IDEA; and
- increase staff in PRDE to provide proper oversight of the IDEA State plan and ensure compliance with IDEA requirements at the local school level, by working with the Department to specify the number of special education staff who will be hired in each year of the compliance agreement to increase the number of staff above the number of special education staff at the time of the signing of the Compliance Agreement.

In preparation for the November 2007 verification visit OSEP conducted a conference call on October 18, 2007 with members of the PRDE's Special Education Advisory Committee. The purpose of the conference call was to provide an opportunity for Advisory Committee members to share their perspectives on the strengths and weaknesses of PRDE's general supervision, data collection and reporting, and fiscal management systems. Ms. Miriam Merced Cruz, Associate Secretary for Special Education, and other PRDE staff participated in the call.

The verification component was conducted during the week of November 5, 2007 at the PRDE offices in Hato Rey. As part of the verification and focused monitoring visit to Puerto Rico, OSEP staff met with Ms. Merced and other PRDE personnel responsible for: (1) the oversight of general supervision (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of PRDE reported data; and (3) the fiscal management of IDEA Part B funds. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Puerto Rico's Federal Fiscal Year (FFY) 2005 APR submitted to OSEP in February 2007; (2) Puerto Rico's SPP submitted to OSEP in December 2005; (3) Puerto Rico's FFY 2006 and FFY 2007 IDEA Part B grant applications; (4) OSEP's previous verification visit letter to Puerto Rico dated August 13, 2004; (6) PRDE's website for public reporting; (7) PRDE Special Conditions progress reports; and (8) other pertinent data sources.

OSEP developed critical elements that were used as a guide in the review of PRDE's general supervision, data collection and reporting, and fiscal management systems. The following is OSEP's discussion, analysis, conclusions and required actions relative to each of these critical elements.

## **GENERAL SUPERVISION SYSTEM**

### Discussion

*Critical Element 1: Does the State have a general supervision system that is reasonably designed to identify noncompliance?*

Puerto Rico's education system functions as a unitary system, that is, it is both the State educational agency (SEA) and the local educational agencies (LEA) as those are defined under Part B. Administratively, PRDE consists of 7 Regions, 84 districts and over 1,523 public schools in Puerto Rico. Because Puerto Rico is a unitary system, monitoring is conducted and data collected on a Statewide basis.

In its February 2007 Long-Term Noncompliance Progress Report, PRDE stated that it monitored 24 entities in 2002-03, 39 in 2003-2004, and 4 in 2004-05. Puerto Rico's FFY 2005 APR represented that PRDE monitored 56 entities during the 2005-06 school year. Based on OSEP's review of lists of entities monitored, the vast majority of these were individual schools, but in several cases the review was of a district. In its February 1, 2008 APR submission, Puerto Rico reported that one of five monitored entities identified with noncompliance in 2002-03 was in compliance, two of six entities identified in 2003-04 were in compliance, and that there were no noncompliance findings from the four entities that were monitored in 2004-05.

During the verification visit, PRDE told OSEP that schools or districts were selected for monitoring based on factors such as numbers of referrals for special education, unusually large variations from one year to the next in the numbers of students with disabilities served, the number of due process hearing requests or complaints filed, and previous

compliance history. According to PRDE, monitoring visits were conducted by staff from the central level as well as by regional level staff. Central level staff coordinated island-wide monitoring efforts, provided support to regional monitors, provided training and technical assistance, and oversaw regional level monitoring activities. Regional level monitoring staff, where available, assisted PRDE central level staff in conducting monitoring activities.

PRDE's revised SPP (submitted February 1, 2007) contained a statement that school districts and schools are visited on a three-year cycle. PRDE staff explained that due to various factors it had not been able to complete scheduled monitoring reviews over the three-year cycle. These included: a practice of not beginning the monitoring of a new group of schools or districts until the previous year's list had been completed; in 2004-05, PRDE identified systemic island-wide compliance issues and discontinued its monitoring for that year in order to provide training; and, personnel vacancies in the monitoring unit and within regions resulted in reduced monitoring. At the time of OSEP's November 2007 visit, PRDE reported that there were four vacancies in the central office monitoring unit. Four of its seven regions (Arecibo, Caguas, Humacao, and San Juan) had monitoring staff who oversaw compliance in schools and districts within their respective regions. But for the three regions (Bayamón, Mayaguez, and Ponce) that had not been able to fill monitoring positions, central office staff were required to conduct monitoring activities. During the April 28-30, 2008 site visit by members of the Department's Risk Management Team, the State reported that PRDE had posted all positions for internal recruitment and had already filled 12 out of 42 vacancies at the central and regional levels. The State reported during the August 4-6, 2008 site visit by the Risk Management Team that an additional 13 positions had been filled.

PRDE acknowledged that its monitoring system needs improvement. Although it had developed various monitoring components (i.e. self-assessment, on-site reviews, data reviews, etc.), these components were not integrated into a system of general supervision. At the time of the November 2007 visit, PRDE had begun working with the Southeast Regional Resource Central (SERRC) and the Data Accountability Center (DAC) to redesign its monitoring system. From March through August 2008, PRDE, SERRC, and DAC met for six technical assistance/product development sessions, with each session lasting two or three days. Their work has included development of monitoring procedures, data collection, and reporting and intensive staff training. PRDE reported its plans to begin piloting its new monitoring procedures in Fall 2008.

*Critical Element 2: As part of its general supervision system, does the State have mechanisms in place to compile and integrate data across systems (e.g., section 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems?*

During interviews with OSEP, PRDE stated that it did not have a data system that allowed it to compile and integrate data across components. Data compilation has occurred primarily at the central level and was described as both burdensome and time consuming.

Staff reported that the current data system is primarily manual. The existing electronic data collection systems (e.g. State complaints, due process hearings) are free-standing and must be accessed independently, making it difficult to look across systems to identify patterns and trends. PRDE sees that the full implementation of its island-wide electronic data system (see the Data section below) will greatly enhance its ability to access, manipulate and utilize information to identify systemic issues and problems.

*Critical Element 3: Does the State have a system that is reasonably designed to correct identified noncompliance in a timely manner, including the use of State guidance, technical assistance, follow-up, and, if necessary, sanctions?*

To address longstanding noncompliance in carrying out its general supervisory responsibilities, the October 25, 2004 Compliance Agreement required that PRDE take specific steps to ensure that noncompliance identified through its monitoring system is corrected within one year of its identification. The December 17, 2007 Memorandum of Agreement specified that PRDE must develop and implement procedures for ensuring correction of noncompliance no later than one year after the finding is made, while also enforcing sanctions when noncompliance has not been corrected in a timely manner, consistent with 20 U.S.C. 1232d(b)(3)(F) and 34 CFR §§300.149 and 300.600.

Puerto Rico's FFY 2005 reported data for Indicator 15 stated that only 14.2% of noncompliance identified during FFY 2004 had been timely corrected during FFY 2005. Subsequently, Puerto Rico revised its definition of noncompliance finding and in the FFY 2006 APR reported 71.88% timely correction of FFY 2005 noncompliance findings. In preparation for the verification visit, OSEP requested that PRDE provide a list of schools and districts monitored from 2003 through approximately September 2006.<sup>2</sup> PRDE provided a list of 81 schools, and indicated that for the majority of those schools, PRDE had verified that identified noncompliance had been corrected.

In order to better understand the underlying factors related to PRDE's difficulties in timely correction of noncompliance, OSEP interviewed the monitoring unit supervisor. She explained that although the cover letters to PRDE's monitoring reports did not stipulate that correction must occur within one year, it is PRDE's practice that the proposed corrective actions must be submitted by the school or district within 10 days of receiving a monitoring report. Also, PRDE central monitoring staff meet with district supervisors to emphasize the importance of correcting noncompliance within one year. However, in many cases, PRDE's follow-up visits to previously monitored schools resulted in the identification of continuing noncompliance. In such cases, PRDE routinely provided training to local school and district staff and then conducted another follow-up visit within three to four months. As noted below, the ineffectiveness of sanctions has been a barrier to timely correction.

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<sup>2</sup> This timeframe allowed OSEP to review corrections of findings where the one year timeline for correction had passed.

*Critical Element 4: Has the State 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 in a timely manner? If barriers have been identified, what mechanisms has the State put in place to address those barriers?*

PRDE identified the following barriers that adversely affect the State's ability to ensure noncompliance is identified and corrected in a timely manner: a shortage of critical staff at all administrative levels; limitation of authority to craft effective sanctions to correct noncompliance issues; the amount of resources required to address the court ordered mandates of the Velez class action case<sup>3</sup>; and the lack of an integrated database system.

PRDE staff reported that approximately 76 positions are vacant at the PRDE, regional, district and service center administrative levels. The lack of sufficient staff to address the area of general supervision, inclusive of monitoring schools in order to identify and correct noncompliance in a timely manner, provide needed technical assistance follow-up, provide on-going staff development, and meet timelines for resolving State complaints and conducting due process hearings, continues to contribute to PRDE's longstanding noncompliance. As noted above, during the April and August 2008 site visits by members of the Department's Risk Management Team, the State reported that all vacant positions had been posted and that 25 vacancies at the central and regional levels had been filled.

PRDE told OSEP that available sanctions were largely ineffective. The list of sanctions include:

- more frequent monitoring visits
- mandatory training
- monthly progress reports
- referral to the PRDE Legal Division

PRDE explained that there were no consequences resulting from more frequent monitoring, training or submission of monthly reports. PRDE staff reported that although it has general regulatory authority to issue sanctions to schools for failure to correct noncompliance, they have no direct authority to enforce those sanctions. Staff believe that referrals to the PRDE Legal Division, described as requests for disciplinary action against responsible staff, have some potential for bringing about actual consequences. However, because the process is burdensome, protracted, and subject to the employee's appeal rights, it is not seen as a cost-effective option. Therefore, referrals to the Department Legal Division are seldom made.

During the summer and fall of 2007, PRDE made a concerted effort to ensure correction of all remaining longstanding noncompliance. Central and regional monitoring staff made a number of follow-up visits (approximately 35) to verify correction. In order to emphasize the importance of correcting longstanding noncompliance issues, PRDE's Secretary convened an island-wide meeting at the beginning of the current school year. All regional directors, district superintendents and district supervisors were required to

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<sup>3</sup> *Class Action Settlement Agreement in Rosa Lydia Velez et al., vs. Awilda Aponte Roque et al.*, No.KPE-80-1738 .

attend. During the meeting, the Secretary specifically mentioned each school and district with uncorrected noncompliance. PRDE reported an increased level of awareness and cooperation from regional and district staff, so that PRDE was able to verify the correction of most noncompliance identified during and prior to September 2006.

*Critical Element 5: Does the State have dispute resolution systems that ensure the timely resolution of complaints and due process hearings?*

*State complaint procedures and timelines:* Under 34 CFR §300.152(a), the State educational agency (SEA) must investigate each State complaint and issue a written decision to the complainant within 60 days after the complaint is filed, unless a specific extension of time is granted pursuant to 34 CFR §300.152(b)(1). This system has proven to be a cost-effective alternative for many States in resolving parental concerns and disputes without resorting to lengthy and costly litigation.

During the verification visit, OSEP reviewed PRDE's State complaint management process. PRDE reported that it had not yet revised its IDEA State complaint procedures to reflect all IDEA 2004 regulatory requirements. Staff reported that while mediation is available to the parties to resolve any dispute under IDEA, PRDE had not revised its written procedures to ensure implementation and compliance with the requirements regarding use of mediation and State complaints at 34 CFR §300.152(a)(3)(ii) and §300.152(b)(1)(ii). Additionally, PRDE reported it had not developed a model form to assist parents and other parties in filing a State complaint under 34 CFR §§300.151 through 300.153 as required at 34 CFR §300.509.

PRDE reported that its internal complaint management procedures require that State complaints be filed onsite at the PRDE administrative offices. According to PRDE staff, the SEA conducts an investigation of alleged violations of IDEA if the complainant meets with staff designated within the Central Legal Division at PRDE in San Juan and provides a sworn statement. PRDE reported that it does not initiate an IDEA complaint investigation upon receipt of a written complaint provided to the SEA via U.S. mail.

The regulations at 34 CFR §§300.151 through 300.153 require the SEA to resolve signed written complaints that include the content and meet other requirements described at 34 CFR §300.153. There is no provision that requires a complaint be filed in person or onsite. By limiting its investigation to only those complaints filed in person onsite, PRDE did not properly investigate all written signed complaints that were submitted to the SEA, consistent with the requirements at 34 CFR §§300.151 through 300.153. Because PRDE does not investigate signed written complaint received by mail, PRDE's 618 data and its APR data may be inaccurate, in that the data only include those complaints which PRDE accepted for investigation.

PRDE reported data in its SPP/APR and Special Conditions Progress Reports, that indicate the SEA has been unable to demonstrate compliance with IDEA requirements at 34 CFR §300.152. OSEP imposed Special Conditions on PRDE's FFY 2006 and FFY 2007 Part B grant awards due to a continuing lack of progress in complying with the



requirements to ensure that written State complaint decisions are issued within required timelines.

During the verification visit, PRDE reported that for FFY 2005, of 37 State complaints filed, only 2.7% were resolved within the required timelines. PRDE also reported that during FFY 2006, 102 State complaints were filed and 56.9% had written reports issued within the required timelines. Although PRDE has demonstrated recent progress in resolving IDEA State complaints within required timelines, PRDE acknowledged during the verification visit that it was unable to demonstrate full compliance with the requirements at 34 CFR §300.152. At the time of the verification visit, there was one individual assigned to investigate State complaints and the SEA has received approval to acquire an additional investigator. However, during the April 15-16, 2008 site visit by members of the Department's Risk Management Team, Puerto Rico reported that an additional attorney had been hired to work as a complaint investigator. In the final Special Conditions report submitted on June 30, 2008, Puerto Rico reported no backlog of complaints and that timely decisions were issued for 95% of complaints from the time period of December 1, 2007 through April 30, 2008.

*OSEP review of select State complaint files:* OSEP selected several IDEA State complaint files for review during the verification visit and on November 21, 2007, requested that PRDE provide complete files for specific State complaints. These files were chosen from the log of complaints provided in PRDE's Final Special Conditions Report, dated May 30, 2007<sup>4</sup> and two others that were reviewed during the OSEP verification visit.

On December 13, 2007, OSEP received a total of nine PRDE State complaint files. OSEP reviewed the complainant's allegations and the State's final written decision in each of the nine complaints. Based on a review of the information contained in the PRDE complaint files, OSEP concludes that PRDE did not consistently provide a written decision to the complainant that addressed each of the allegations in the complaint as required at 34 CFR §300.152(a)(5). Further, when through its investigation PRDE found a failure to provide the child with appropriate services, PRDE did not include corrective actions (such as the need for compensatory services) to address the needs of the child and the appropriate future provision of services for all children with disabilities as required at 34 CFR §300.151(b).

*Due process complaints procedures and timelines:* Under 34 CFR §300.510(a), within 15 days of receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing, a resolution meeting must be convened that includes the parent and the relevant members of the IEP Team who have specific knowledge of the facts identified in the parent's due process complaint. The resolution meeting is not required if the parent and LEA agree in writing to waive the meeting or the parent and the LEA agree to use the mediation process described in 34 CFR §300.506. The regulations at 34 CFR §300.515 require a final decision be reached and issued to the parties not later

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<sup>4</sup> PRDE Final Special Conditions Report submitted to the U.S. Department of Education Office of Special Education Programs, May 30, 2007, pages 10 and 11.

than 45 days after the expiration of the 30 day resolution period under §300.510(b) or the adjusted time period described in §300.510(c).

In its FFY 2005 APR, PRDE reported it had not offered or held resolution meetings as required at 34 CFR §300.510(a) during the 2004-2005 and 2005-2006 school years. PRDE submitted a plan to begin offering resolution meetings by April 2, 2007. During the verification visit, PRDE reported that it is implementing the IDEA resolution process and the first resolution meeting was held on May 23, 2007. OSEP selected a sample of due process complaints that were filed since PRDE began implementing the resolution process requirements and reviewed the SEA's documentation of actions taken to respond to those due process complaints. Based on that review, OSEP determined that in each of the files reviewed, PRDE had properly documented the dates resolution meetings were scheduled, held, and the outcome of those meetings. Additionally, if the parties chose to use the mediation process as permitted under 34 CFR §300.510(a)(3)(ii), PRDE had documented the mediation sessions scheduled, held, and the outcome of the mediation process. OSEP concludes that PRDE is in compliance with the resolution meeting requirements at 34 CFR §300.510(a).

PRDE has developed a model form to assist parents in filing a due process complaint as required at 34 CFR §300.509 and has developed administrative forms to support the State's implementation of the resolution process. PRDE reported it conducted training in conflict resolution strategies and techniques for staff that are designated to facilitate resolution meetings. PRDE reported that it offered training related to the IDEA due process procedures for parents, PRDE employees, and hearing officers.

In its FFY 2005 APR, PRDE reported 66.94% compliance with the requirement to ensure written hearing decisions are issued within the 45-day timeline or a timeline properly extended by a hearing officer at the request of either party. In the FFY 2006 APR submitted February 1, 2008 Puerto Rico reported 51.46% compliance with this requirement, which represents slippage from the previous reporting period. During the verification visit, PRDE staff expressed concern that in the past, hearing officers may have inappropriately extended the timeline for issuing written hearing decisions. PRDE further reported that hearing decision timelines and the circumstances under which an extension of the 45-day timeline may be granted are areas emphasized in the training provided to hearing officers. PRDE staff indicated they intend to track extensions of the 45-day timeline more closely to ensure that such extensions are granted only at the request of a party. 34 CFR §300.515.

*Critical Element 6: Does the State have mechanisms that focus on improving educational results and functional outcomes for all children with disabilities?*

PRDE staff told OSEP that the changes in IDEA 2004 and the implementation of the SPP and APR requirements have provided the impetus for reconceptualizing its system of general supervision. PRDE has established a leadership team, with each member of the team assigned different indicators in the SPP/APR. The team meets weekly to discuss data, trends, implementation of improvement activities and remaining barriers.

Individually, and as a team, staff members assess the effect of their activities on the data and adjust the activities accordingly. The team effort has helped increase knowledge and understanding of the SPP/APR process as well as improving PRDE's performance in meeting its targets.

PRDE is using the SPP/APR indicators as the organizing principle for the work of the special education office and has the goal of integrating the functions of its office to improve its general supervision system. Despite the numerous problems and challenges, OSEP believes that the PRDE's special education leadership and staff have demonstrated dedication and commitment through their efforts to develop systems that focus on improving educational results and functional outcomes for children with disabilities.

#### Equitable Services to Parentally-Placed Private School Children with Disabilities

The Part B requirements for providing equitable services to parentally-placed private school children with disabilities are set out at 34 CFR §§300.129-300.144. PRDE stated that during the 2006-2007 school year 265 parentally-placed private school students with disabilities were provided related services, equipment, and the services of paraprofessionals. Although PRDE reported providing these services, it could not demonstrate that it was complying with the applicable requirements of 34 CFR §§300.131; 300.134; and 300.135. Also, as noted under the fiscal management section below, Puerto Rico has not demonstrated that it is in compliance with the fiscal requirements of 34 CFR §300.133, related to expenditures for services to parentally-placed private school children with disabilities.

The Part B regulations, at 34 CFR §300.131, require that the LEA locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private schools. The child find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of those children. The child find activities undertaken must be similar to the activities undertaken for the agency's public school children and must be completed in a time period comparable to that for students attending public schools. During the on-site visit, PRDE staff could not describe a process for conducting such child find activities. Therefore Puerto Rico could not demonstrate that it was in compliance with the child find requirements of 34 CFR §300.131.

Under 34 CFR §300.134, the LEA is required to conduct timely and meaningful consultation with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services regarding the following:

- 1) How parentally-placed private school children suspected of having a disability can participate equitably;
- 2) How parents, teachers, and private school officials will be informed of the process;

- 3) The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities including the determination of how the proportionate share of those funds was calculated;
- 4) The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.
- 5) How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of --
  - (a) The types of services, including direct services and alternate service delivery mechanisms; and
  - (b) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and
- 6) How and when those decisions will be made; and
- 7) How, if the educational agency disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), it will provide to the private school officials a written explanation of the reasons why it chose not to provide services directly or through a contract.

In addition, under 34 CFR §300.135, when timely and meaningful consultation has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.

During the verification visit, PRDE stated that it conducts a consultation process each March. PRDE staff reported that its consultation process consists of sending an annual survey to the principals at each of Puerto Rico's private schools and inviting them to identify their priorities with regard to provision of special education and related services to children with disabilities enrolled in their schools. Therefore, PRDE does not conduct consultation consistent with the requirements of 34 CFR §§300.134 and 300.135.

In a series of conference calls during February and March 2008 and during the August 4-6, 2008 site visit by the Risk Management Team, Department staff provided technical assistance to PRDE regarding steps it must take to come into compliance with the requirements of 34 CFR §§300.129-300.144.

#### Conclusions and Required Actions

OSEP concludes that PRDE does not have systemic, data-based, and reasonable approaches to identifying noncompliance. As reported above, PRDE's monitoring system has not been designed and implemented to ensure that noncompliance is identified across its 7 regions, 84 districts and 1,523 public schools. Stand-alone data systems and a heavy reliance on manual data collection have made it difficult for PRDE staff to compile and integrate data across its systems (e.g., section 618 State-reported data, due process

hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems. Although PRDE has been ineffective in correcting longstanding noncompliance, OSEP is encouraged that recent efforts have resulted in progress in this area.

PRDE has identified significant barriers that impede its ability to correct and identify noncompliance including: ineffective sanction and enforcement procedures; staff resources required to address court-ordered mandates of the Velez case; lack of an integrated data system; and staff vacancies in key positions needed to carry out its general supervisory responsibilities.

With regard to dispute resolution, OSEP concludes that PRDE does not have dispute resolution systems that ensure the timely resolution of due process hearings. PRDE acknowledged that timely resolution of due process complaints is difficult to attain due to the volume of complaints filed and the lack of sufficient staff necessary to resolve these matters. As a result, PRDE remains unable to ensure decisions are issued for due process complaints within the required timelines.

Although PRDE continues to have problems with timely resolution of due process hearings, the June 30, 2008 Final Special Conditions Report Update demonstrates that Puerto Rico has made significant progress in the area of State complaints reporting a high level of compliance (95%) with the requirements of 34 CFR §300.152. However, as noted above, it has been PRDE's practice to accept for investigation only those complaints that are filed in person onsite at the PRDE administrative offices. Because PRDE does not investigate signed written complaint received by U.S. mail, PRDE's 618 data and its APR data may be inaccurate. PRDE must ensure that the correct information is accurately reported in the FFY 2007 APR, due February 2, 2009.

In its FFY 2007 APR, due February 2, 2009, PRDE must include a description of its system for identifying and correcting noncompliance. The description should address:

- (1) systemic, data-based and reasonable approaches to identifying noncompliance that, to the extent appropriate, include the compilation and integration of data across systems to identify systemic issues; and
- (2) the process for timely correction of noncompliance, including the provision of technical assistance, guidance and, if necessary, sanctions;

Also, with the FFY 2007 APR, due February 2, 2009, PRDE must submit State complaint procedures consistent with the revised IDEA State complaint at 34 CFR §§300.151 through 300.153. Specifically, these PRDE's procedures must:

- (1) require the investigation of all written signed complaints, including those submitted via U.S. mail, consistent with the requirements of 34 CFR §§300.151 through 300.153;

- (2) ensure that data it reports pursuant to Section 618 of IDEA and data reported in its APR accurately reflect all written signed complaints received, including complaints which are delivered by U.S. mail;
- (3) address the use of mediation set forth at 34 CFR §300.152(a)(3)(ii); §300.152(b)(1)(ii);
- (4) provide that a written decision be issued to the complainant that addresses each of the allegations in the complaint as required at 34 CFR §300.152(a)(5); and
- (5) require that, when through its investigation PRDE finds a failure to provide the child with appropriate services, include in the written decision corrective action appropriate to address the needs of the child and the appropriate future provision of services for all children with disabilities as required at 34 CFR §300.151(b).

Also, with the FFY 2007 APR, PRDE must develop and submit to OSEP a model form to assist parents and other parties in filing a State complaint under 34 CFR §§300.151 through 300.153 as required at 34 CFR §300.509.

To demonstrate that it investigates and resolves all written signed State complaints including those it receives by U.S. mail, and that it addresses all allegations in State complaints including the future provision of services, where appropriate, by May 1, 2009, PRDE must submit a log of all complaints received between December 1, 2008 and April 1, 2009. For each complaint, the log should include the following data: date received, method by which complaint was submitted (delivered in person by complainant, mailed by complainant), final disposition of complaint (written complaint decision mailed, complaint withdrawn, etc.), and, where appropriate, date written complaint decision mailed). To demonstrate that it addresses all allegations in State complaints including the future provision of services, where appropriate, by May 1, 2009, PRDE must submit ten random State complaints and the corresponding written decisions.

## **DATA COLLECTION AND REPORTING**

### Discussion

*Critical Element 1: Does the State have a data system that is reasonably designed to collect and report to the Department and the public, timely, complete and accurate (valid and reliable) data and information?*

At the time of OSEP's verification visit, PRDE did not have an integrated electronic data base for collecting required data. PRDE staff reported that teachers complete data forms for collecting and verifying student information. The completed forms are certified as accurate by the school principal and then submitted to the District-level special education supervisor prior to submission to PRDE. PRDE staff then compare the submitted data against an electronic student record database. If discrepancies are identified, the data are returned to the District special education supervisor to reconcile the differences.

PRDE reported that it has no written procedures for validating data at the central level. Several years ago a manual was drafted but was not finalized due to personnel changes at the Secretarial level. Three central level special education staff are charged with the responsibility of reviewing data and identifying possible errors.

PRDE is in the process of transitioning to a new database/collection system, SEASWEB. This effort will allow it to move from a system based primarily on manual methods of data collection to an electronic form of data collection, and as a result, will help ensure the validity and reliability of information as well as enhance the efficiency of collecting and maintaining data.

As a part of this transition, PRDE generated a list of data fields of all of the information it wants the new data system to collect, based in large part upon IDEA and OSEP reporting requirements. PRDE then provided this information to its contractor to be used in the design of the new database system.

PRDE and SEASWEB completed the data conversion on October 30, 2007. At the time of OSEP's visit, PRDE was preparing to validate the data through submitting information pulled from the system to the schools to be reviewed and certified. Also, PRDE plans to test the new application to make sure it contains all required data elements and reports.

According to interviews with PRDE staff, portions of the dispute resolution data entered on Table 7 have not been reported in a manner consistent with the instructions for that 618 dispute resolution data collection. Specifically, PRDE has included within its number of complaints having a "written report issued," those State complaints that were withdrawn or resolved without the SEA conducting an investigation. According to the definitions and instructions for the 618 dispute resolution data collection, such complaints are to be entered as "withdrawn or dismissed." Additionally, PRDE staff report that in previous APRs and the November 1, 2007 618 data submission, the SEA did not have a mechanism for collecting and reporting data regarding expedited due process complaints and expedited hearings. PRDE has recently revised its model due process complaint request form to include an area in which the complainant and/or SEA indicates whether an expedited hearing is required under 34 CFR §300.532. PRDE reported it is currently tracking this information and expects to provide data related to expedited due process complaints in its future APR and Section 618 data submissions on dispute resolutions.

*Critical Element 2: Does the State provide clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of IDEA and the SPP/APR?*

PRDE reported that it provides annual guidance and training to teachers, school principals, district and regional staff on SPP/APR data requirements and reporting, as well as, section 618 data collection and reporting. This training is further supported by written instructions and follow-up training provided by District special education supervisors.

PRDE reported that SPP/APR data collection and reporting was problematic due to PRDE's dependence on 'stand alone' data collection systems and paper and pencil submission and review for certification of data. PRDE reported that staff shortages at the central and regional levels contribute greatly to the problem of meeting the training needs of staff that are responsible for collecting data required for the SPP/APR and section 618. As a part of its transition to the web-based system, PRDE has undertaken a comprehensive effort to ensure that all users are properly trained in the use of the new system. PRDE, in conjunction with SEASWEB and the University of Puerto Rico conducted a "train the trainer session" for 240 district supervisors, who will in turn train other personnel to use the system.

*Critical Element 3: Does the State have 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 sections 616 and 618 of the IDEA, OSEP guidance, and the State's procedures?*

As stated above, PRDE reported that all data forms are completed by teachers, certified by the school principal and then submitted to the District level office. These data are then compared to data previously collected electronically by the PRDE. If it is determined that there are inaccuracies and/or discrepancies with data, the data is sent back to the District level for investigation. However, PRDE could not ensure that the individuals responsible for entering data, accurately report data consistent with OSEP guidance, section 618 and SPP/APR data requirements.

*Critical Element 4: Does the State have procedures for identifying anomalies in data that are reported to the State and for correcting any inaccuracies?*

PRDE staff reported that its procedures for identifying anomalies in the data reporting consisted of a comparison made between the paper and pencil data submission from schools to the electronically collected data at the PRDE central office level. Anomalies are identified at the PRDE central office level and then sent to the district level special education zone supervisors for corrective action.

PRDE acknowledged the data issues identified by Westat (e.g., timeliness, data discrepancies, and missing data) were a result of the current data collection and reporting process, but PRDE expects that the new electronic system (SEASWEB) would greatly enhance PRDE's data collection and reporting capabilities. In addition, PRDE indicated that the new electronic system would address the identification of anomalies and barriers to reporting data to OSEP, Westat and to the public.



*Critical Element 5: Does the State utilize the results of its analysis to target resources and systems improvement?*

PRDE reported that in reconceptualizing its general supervision system, it is attempting to utilize data to identify needs across the Commonwealth. It told OSEP that the SPP/APR process has highlighted the need to collect and analyze data to determine where resources are most critically needed. PRDE uses its data to help make difficult decisions regarding the allocation of human resources, budgeting for school materials and identifying service needs.

PRDE described continuing barriers to use of its data to target resources and improve its systems. Frequent staff turnovers and staff vacancies at all levels make it difficult to ensure that all appropriate staff are adequately trained in the consistent use of data collection and reporting procedures. Problems with obtaining necessary hardware (i.e. working computers with internet services) at all schools have made it challenging to migrate to the new web-based data collection system.

Conclusions and Required Actions

PRDE acknowledged that the current system has not resulted in the collection and reporting of valid and reliable data and has taken steps to implement a new web-based data collection system of data collection and reporting (i.e., SEASWEB).

It is expected that the SEASWEB will address most of the problems related to data validity and reliability, including the identification and correction of anomalies. PRDE believes that the new system will enhance its ability to use data to analyze compliance and performance data in order to improve outcomes for children with disabilities.

OSEP continues to look forward to the revisions in PRDE's data collection and reporting system to ensure the timely, accurate submission of 618 and SPP/APR data. PRDE must review its improvement activities in its SPP and revise the activities, if appropriate, to ensure these activities will enable PRDE to include data in the FFY 2007 APR, due February 2, 2009, that demonstrate substantial compliance with the requirements in IDEA sections 616(b)(2)(B)(i) and 618.

**FISCAL MANAGEMENT**

Discussion and Analysis

On October 24, 2004, the Department entered into a comprehensive, three-year Compliance Agreement (Agreement) with the Commonwealth of Puerto Rico (Puerto Rico) and PRDE, in recognition of the need to make necessary improvements in grants management and accountability. On June 2, 2006, the Department wrote to Puerto Rico and indicated that the Department was imposing Special Conditions on all its grants to Puerto Rico based upon the lack of progress under the 2004 Compliance Agreement. Therefore, PRDE's FFY 2006 and 2007 IDEA Part B grant awards were released subject

to Department-wide Special Conditions. In addition, the award for FFY 2007 contained Special Conditions on fiscal controls for any IDEA funds used for transportation contracts in the Bayamón educational region (see below). On December 17, 2007, PRDE and the Department entered into a Memorandum of Agreement to resolve some long-standing issues and a new Compliance Agreement that includes, among other things, fiscal issues related to Title I, the IDEA, and internal audits.

*Critical Element 1: Does the State have procedures reasonably designed to ensure appropriate distribution of IDEA funds at the State level?*

*Critical Element 2: Does the State have procedures reasonably designed to ensure appropriate use of IDEA funds at the LEA level?*

As noted previously, Puerto Rico is a unitary system, therefore PRDE functions as both the SEA and the LEA. Accordingly, PRDE is not required to develop a funding mechanism to distribute IDEA funds to its LEAs. Because the critical elements related to those provisions do not apply in the same way as they would to non-unitary systems, OSEP focused its verification review on specific State-level requirements and PRDE's procedures for meeting certain requirements for the use of FFY 2007 IDEA Part B funds for the direct provision of special education and related services to children with disabilities.

Under 34 CFR §300.162(b), Part B funds may not be commingled with State funds. PRDE staff reported that Federal funds and State funds in Puerto Rico were tracked separately through the Puerto Rico Integrated Financial and Accounting System (PRIFAS) which has separate accounting codes for each identified funding source. In addition, PRDE staff indicated that it had implemented a new fiscal management system within the Agency, Sistema de Información Financiera del Departamento de Educación (SIFDE). PRDE reported that the system has been able to assist them with ensuring that IDEA B funds were being used in accordance with the description in the Use of Funds Section in its IDEA Part B application and that any remaining IDEA Part B funds from prior years were being allocated and expended within the identified budget cycle.

Under 34 CFR §300.163, a "State must 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." This is often referred to as the State-level maintenance of effort requirement. PRDE staff reported that it did not have written procedures for ensuring State-level maintenance of effort, but also reported that Puerto Rico has continued to increase its State-level financial support for special education and related services over the prior two years. In FFY 2006, its State-level support for special education was \$203,610,000, while in FFY 2007 that amount increased by 13.67% to \$235,843,500.

PRDE finance staff indicated that the budget/expenditure codes were being expanded within the SIFDE to provide greater tracking detail in the distribution of IDEA Part B

funds. PRDE reported that its budget manual was being revised to include the budget/expenditure code expansion, as well as, the procedures for calculating and documenting PRDE's maintenance of effort. Also, as noted below, Puerto Rico has agreed to adjust its calculations of State-level maintenance of effort from FFY 2002 to the present to exclude the transportation costs of students with disabilities in the Bayamón region.

PRDE staff described the procurement procedures that it had established and implemented and that it believes improve the functions that pertain to purchasing of materials, equipment, services, etc. inclusive of all phases of contract administration. PRDE reported that these procurement procedures and the expanded budget codes of the SIFDE should enhance the tracking of expenditures and specifically assist in tracking transportation contracts and expenditures. PRDE staff reported that the State will continue to provide ongoing training on the SIFDE to ensure fiscal accountability with the allocation and expenditure of IDEA Part B funds.

PRDE finance staff explained the procedure for utilizing the Agency Property Inventory to account for all property, equipment and supplies purchased. However, PRDE staff were unsure whether Part B funds were tracked in accordance with the requirements of 34 CFR §300.144, related to equitable services to parentally-placed private school students (see below). PRDE staff reported that it was expanding the budget codes within the SIFDE to provide greater detail and thereby enhance PRDE's ability to monitor the distribution and expenditure of IDEA funds. PRDE reported that the expanded budget codes will enable PRDE to review budget expenditures for activities such as: the purchase of IEP specific materials; staff development workshops; contracts for services and evaluations; and equipment purchases for individual students.

#### Transportation Costs for the Bayamón Region:

In its December 14, 2004 audit report, the Department's Office of the Inspector General found that PRDE used IDEA Part B funds for transportation services to students with disabilities without verifying whether such services were actually provided. PRDE made unsupported payments for transportation contracts in the Bayamón Region and did not implement adequate controls to request and review the schools' attendance lists of special education students to verify the accuracy of transportation invoices prior to making payments or to make payment adjustments based on student absences. In the interim, OSEP has required a number of corrective actions intended to resolve this issue. However, Puerto Rico has been unable to demonstrate compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a) for the costs of transportation services to children with disabilities in the Bayamón Region.

OSEP requested and, as part of its FFY 2008 Part B grant application, Puerto Rico provided, a specific assurance that it will not use Part B funds for the special education transportation costs of the Bayamón region until it has demonstrated compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a). In addition, the State has assured "that any Commonwealth funds used to fund the

transportation costs of students with disabilities in the Bayamón Region will not be included in the total amount used to calculate or measure Puerto Rico's compliance with the State-level maintenance of effort requirement at 20 U.S.C. 1412(a)(18) and 34 CFR §300.163 in either the current federal fiscal year or the preceding federal fiscal years from 2002 to 2007." Finally, Puerto Rico agreed to provide notice of this assurance to all relevant personnel and provide any needed guidance on its implementation. The December 17, 2007 Compliance Agreement provides that by no later than February 1, 2010, PRDE will submit data and otherwise demonstrate compliance by addressing and resolving the financial management issues related to the use of funds requirements for transportation contracts.

#### Proportionate Funds for Equitable Services to Parentally-Placed Private School Children with Disabilities

As noted above, although PRDE reported that it provides services to parentally-placed private school children with disabilities, OSEP has concluded that PRDE has not fully complied with all applicable requirements in 34 CFR §§300.130-300.144. As related to fiscal management, OSEP finds that Puerto Rico has not demonstrated that it is in compliance with the requirement that it use a proportionate share of Part B funds to provide special education and related services (including direct services) to parentally-placed private school children with disabilities.

Under 34 CFR §300.133, in providing special education and related services (including direct services) to parentally-placed private school children with disabilities aged 3 through 21, the LEA must spend "an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21." In addition, for children aged three through five, the LEA must spend "an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five." PRDE staff could not describe a process for determining the proportionate share of IDEA funds which must be expended on parentally-placed private school students with disabilities consistent with 34 CFR §300.133. As noted previously, PRDE reported serving 265 parentally-placed private school students with disabilities and explained that for each region, a quantity of funds is set aside and once those are expended, parentally-placed private school students with disabilities needing services are placed on a waiting list. Therefore, Puerto Rico has not demonstrated that it is in compliance with this requirement.

*Critical Element 3: Does the State have procedures reasonably designed to ensure the timely obligation and liquidation of IDEA funds?*

PRDE staff reported that the PRIFAS has greatly improved Puerto Rico’s control over the timely obligation of Federal funds and compliance with Federal requirements applicable to the period of availability of funds, cash management, and proper liquidation of obligations. PRDE reported that the SIFDE assigns Federal funds to individual units for purposes of enhanced tracking of allocations and expenditures. In addition, the SIFDE provides reports, such as levels of expenditures of the created account for the Grant, which assists PRDE in tracking timely expenditure of IDEA Part B funds.

As illustrated in the table below, PRDE did not liquidate its FFY 2002 and 2003 IDEA funds within the required liquidation period.<sup>5</sup> However, PRDE finance staff reported that it had improved the timely obligation and liquidation of its IDEA 611 funds and 619 funds. The following provides a historical perspective as to PRDE’s timely obligation and liquidation of IDEA Part B funds from the Department’s September 13, 2008 Grants Administration and Payments System (GAPS) report.

Section	Code	Unexpended FY 2002 funds	Unexpended FY 2003 funds	Unexpended FY 2004 funds	Unexpended FY 2005 funds	Unexpended FY 2006 funds <sup>6</sup>	Total
B/611	090142522	\$144,159	\$7,865	\$0	\$1,828	\$97,307	\$251,159
B/619	090142522	\$2,127	\$148,282	\$0	\$0	\$0	\$150,409

PRDE staff reported that they expected to be able to liquidate the remaining Section 611 IDEA Part B funds for FFY 2006.

Conclusions and Required Actions

OSEP appreciates the efforts PRDE’s staff has put forth to enhance its fiscal management system to ensure fiscal accountability in the distribution and use of IDEA Part B funds. However, OSEP concluded, and PRDE acknowledged, that it does not have in place procedures within its fiscal management system to track the use of IDEA funds for the purchase of equipment in private schools. Furthermore, PRDE’s fiscal management system does not include procedures to monitor use of Part B funds at the school or district office levels. OSEP cannot, however, without also collecting data at the local level, determine whether all schools and district offices within the PRDE system implement PRDE’s fiscal procedures in a manner that is consistent with IDEA Part B.

<sup>5</sup> Also, PRDE did not fully liquidate a small portion of its FFY 2005 611 funds (approximately .02 percent).

<sup>6</sup> For FFY 2006, PRDE was awarded \$3,162,317 in Section 619 funds and \$99,227,228 in Section 611 funds. All FFY 2006 funds must be obligated by September 30, 2008 and liquidated by December 31, 2008.

With its FFY 2007 APR, due February 2, 2009, PRDE must submit:

- (1) the revised finance management manual, inclusive of the Maintenance of Effort (MOE) and Excess Cost calculation procedures;
- (2) written procedures for tracking the use of Part B funds for the purchase of equipment used in private schools;
- (3) written procedures for monitoring the use of Part B funds at the school and district office levels;
- (4) written procedures for ensuring compliance with the maintenance of effort requirements at 34 CFR §300.163; and
- (5) progress data demonstrating the steps it has taken to comply with the requirements addressing equitable participation for parentally-placed private school children with disabilities, as required by 34 CFR §§300.130-300.144.

In its final quarterly report under the MOA, due March 31, 2009, PRDE must submit data, information and documentation demonstrating that it fully complies with the equitable participation requirements at CFR §§300.130-300.144.

In closing, we appreciate the cooperation and assistance provided by your staff during our visit. As noted above, we request that you keep us informed concerning your progress in ensuring correction in those identified areas of longstanding noncompliance. We look forward to our continued collaboration with Puerto Rico to support your work to improve results for children with disabilities and their families.

Sincerely,



William W. Knudsen

Acting Director

Office of Special Education Programs

cc: Miriam Merced Cruz