

October 9, 2003

Honorable César Rey-Hernández
Secretary of Education
Puerto Rico Department of Education
Post Office Box 190759
San Juan, Puerto Rico 00919-0759

Dear Secretary Rey-Hernandez:

The purpose of this letter is to inform you that the Office of Special Education and Rehabilitative Services of the United States Department of Education (Department) has conditionally approved Puerto Rico's Eligibility Document Submission for Federal Fiscal Year (FFY) 2003 under Part B of the Individuals with Disabilities Education Act (IDEA). This approval is subject to Special Conditions specifically identified in the Department's September 26, 2003 letter to the Puerto Rico Department of Education (PRDE) regarding grants management and accountability issues for administration of Federal education grants (Enclosure C), and Special Conditions set forth in Enclosure D that are being imposed pursuant to the Department's authority in 34 CFR §80.12.

Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by Puerto Rico to the Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2002 including the Eligibility Documents submitted October 3, 2000, subsequent revisions to those Eligibility Documents and the Submission Statement submitted June 11, 2003; and
2. The 2003 assurance, received by facsimile transmission on June 27, 2003, from Puerto Rico to OSEP, in which Puerto Rico assures that as soon as possible, but no later than July 1, 2004, Puerto Rico will complete the remaining change related to 34 CFR §300.142 set forth in the June 21, 2002 issues chart, specifically the signed memorandum of understanding between the Puerto Rico Department of Human Services and the Puerto Rico Department of Education regarding the coordination of services for infants and toddlers with disabilities under Part C of the IDEA.

In the 2003 assurance, received by OSEP on June 27, 2003, Puerto Rico also assures that it will take steps to ensure that, throughout the period of this grant award, all public agencies in Puerto Rico that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B. Puerto Rico further assures that it will provide OSEP with a copy of a memorandum notifying all public agencies

of the changes that impact on public agencies' provision of special education and related services that OSEP requires as a result of its review of Puerto Rico's eligibility documents.

Please note that as part of your Eligibility Document Submission for FFY 2003, Puerto Rico has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. Any changes made by Puerto Rico, after OSEP approval, to information that is a part of Puerto Rico's eligibility documentation, must meet the public participation requirements of the IDEA and must be approved by OSEP before implementation.

While the Department has determined that the PRDE has demonstrated some progress in the administration of this program, we remain concerned about the need to address program-specific issues related to alternate assessments. The information reported to the Department in Puerto Rico's Biennial Performance Report for the 2000-2001 school year demonstrated that Puerto Rico had not developed and administered alternate assessments and was not reporting publicly, and to the Secretary, on the participation and performance of children with disabilities on alternate assessments as required by Part B. While the alternate assessment has been developed and administered and the participation and performance data has been reported to the Secretary, Puerto Rico's failure to report publicly on the participation and performance of children with disabilities on alternate assessments has resulted in the Department imposing the Special Conditions contained in Enclosure D of this letter. The reasons for doing so and the specific conditions are detailed in Enclosure D.

Grant Awards

Enclosed are grant awards for funds currently available under the Department of Education FFY 2003 Appropriations Act for the Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are for use primarily in school year 2003-2004 and are available for obligation by States from July 1, 2003 through September 30, 2005.

The funding formula for the Section 611 program is the same as was implemented for FFY 2000. Subject to certain maximum and minimum funding requirements, State allocations are based on the amount that each State received from FFY 1999 funds, the general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities.

Enclosure A provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure A shows funding levels for distribution of Section 611 funds.

Enclosure B provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure B shows State-by-State funding levels for distribution of Section 619 funds.

These awards are based on submission of a complete eligibility document package, a signed assurance statement regarding resolution of issues identified in OSEP's review of that eligibility document package, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete eligibility document package and assurances must be made available for public inspection.

Puerto Rico must administer these awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions in Enclosures C and D attached to the grant award document. Acceptance by Puerto Rico of these grant awards constitutes an agreement by the State to comply with these Special Conditions.

While we have been pleased with the dedication of you and your staff in your efforts to address some of the problem areas, much work remains to be done. We know that you share our view that meeting these requirements and standards is critical to ensuring positive educational outcomes for all children in Puerto Rico so that no child is left behind. We will work with your agency to monitor progress in meeting the applicable requirements of the grant awards, including the Special Conditions in Enclosures C and D, while also working with other Department of Education program offices to ensure that PRDE adheres to both fiscal and programmatic accountability standards. We appreciate your personal attention in giving these matters their high priority.

Sincerely,

/s/Patricia J. Guard for

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosures

cc: Sonia Rosario
Myrta Reyes