



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

July 1, 2014

Honorable Rafael Román Meléndez
Secretary of Education
Puerto Rico Department of Education
Post Office Box 190759
San Juan, Puerto Rico 00919-0759

Dear Secretary Román Meléndez:

We have approved your State's application for Federal Fiscal Year (FFY) 2014 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our approval is based on review of the application submitted by the Puerto Rico Department of Education (PRDE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 12, 2014, including assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

As set forth in Enclosure D, on June 27, 2014, Department-wide Special Conditions were placed on all Department grants awarded to PRDE, as well as on all grants previously awarded by the Department to PRDE that currently are still available for obligation or liquidation on the date of those special conditions. These Department-wide Special Conditions were imposed to ensure that Department grant awards are expended by PRDE in accordance with applicable legal requirements, and the appropriate fiscal accountability measures and management practices and controls, including those established by PRDE under the Compliance Agreement (CA) among Puerto Rico, PRDE, and the Department, signed on December 17, 2007, and ensure continued progress in meeting the programmatic requirements of Part B of the IDEA. The reason for doing so and the specific conditions are detailed in Enclosure D.

One of the Department-wide Special Conditions related to the programmatic requirements of Part B of the IDEA requires PRDE to resolve financial management issues, including addressing and resolving the use-of-funds requirements related to transportation contracts. See Section II. D.2.v of Enclosure D. The Commonwealth's FFY 2007 Part B grant awards were issued subject to programmatic Special Conditions, including a Special Condition specifically related to the use, designation, and accounting of transportation costs for students with disabilities in the Bayamon Educational Region. See Enclosure E of PRDE's October 30, 2007 Part B grant award letter. In its April 30, 2014 FFY 2012 APR Supplemental Report (Report), PRDE reported on activities addressing use of funds, financial accounting and reporting, and procurement strategies related to special education transportation contracts. PRDE reported that it has: (1) continued its efforts to improve the internal controls in place for special education transportation contracts; and (2) developed a Transportation Management System that: (a) will improve the administration of contracts between bus drivers and PRDE; (b) allows for the recording of activities from the date the contract is awarded through payment for services; and (c) will allow PRDE to strengthen internal controls and better monitor services. PRDE further reported that it began to implement a thorough process of collecting and reviewing data regarding special education transportation

contracts as of March 2012, as an initial step towards converting information to the Transportation Management System, and that PRDE collected data for all regions. PRDE further reported on a pilot project that it initiated in the Bayamon region. Additionally, the Commonwealth promulgated regulations governing contracting procedures and the model transportation contracts were revised to incorporate this new system as well as prospective processes that would allow PRDE to improve its controls and monitoring of services. PRDE also reported that the PRDE Subsecretary for Administration has been designated to oversee all transportation matters agency-wide, including those impacting special education transportation contracts. While the Commonwealth provided information on special education transportation contracts, it did not provide information on activities it has conducted to resolve financial management issues related to other areas of special education and related services. Finally, PRDE reported that, while a Transportation Management System was developed, implementation was put on hold and that the regulations governing contract procedures and the model transportation contracts were finalized and approved.

On May 12, 2014, the Commonwealth provided the following specific assurances related to transportation costs for students with disabilities in the Bayamon Educational Region:

1. Throughout the period of fund availability for Puerto Rico's grant awards under Part B of the IDEA for FFY 2014, Puerto Rico assures that until such time as Puerto Rico has demonstrated to the U.S. Department of Education (Department) that it is in full compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a) for all transportation costs for students with disabilities in the Bayamon Region, no IDEA funds will be used to fund the transportation costs of students with disabilities in the Bayamon Region and that any Commonwealth funds used to fund the transportation costs of students with disabilities in the Bayamon Region will not be included in the total amount used to calculate or measure Puerto Rico's compliance with the State 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 2013;
2. PRDE will submit documentation to OSEP at least 60 days prior to any use, allocation, accounting, or designation of IDEA Part B funds to pay for the transportation costs of students with disabilities in the Bayamon Region or of any use, allocation, accounting, or designation to include Commonwealth funds used to pay the transportation costs of students with disabilities in the Bayamon Region in the total amount used to calculate or measure Puerto Rico's compliance with the State maintenance of effort requirement at 20 U.S.C. 1412(a)(18) and 34 CFR §300.163. The documentation to be submitted must include an audit report that clearly demonstrates that PRDE is in full compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a) for all transportation costs of students with disabilities in the Bayamon Region; and
3. The Commonwealth will provide OSEP with a copy of the memorandum notifying the appropriate finance personnel in Puerto Rico and providing any needed

instructions for implementation, so that funds received under Part B of the IDEA will not be used to fund transportation services of students with disabilities in the Bayamon Region until such time as Puerto Rico has submitted, and the Department has approved, documentation, including an audit report, demonstrating compliance with the requirements of 34 CFR §§76.702; 80.20(a)(2); 80.20(b)(3) and (6); and 80.36(a) and that any Commonwealth funds used to pay the transportation costs of students with disabilities in the Bayamon Region may not be included in the total amount used to calculate or measure Puerto Rico's compliance with the State maintenance of effort requirements at 20 U.S.C. 1412(a)(18) and 34 CFR §300.163.

Please note that as part of your application for FFY 2014, your State has made an assurance, pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2014 grant period. Any changes made by the State, after OSEP approval, to information that is a part of a State's application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed are the State's FFY 2014 grant awards for funds currently available under the Consolidated Appropriations Act, 2014 -- P.L. 113-76 for the IDEA Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are available for obligation by States from July 1, 2014, through September 30, 2016, in accordance with 34 CFR §76.709.

The amount in your award for Section 619 represents the full amount of funds to which you are entitled. However, 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 2014. Of the \$11,472,848,000 appropriated for Section 611 in FFY 2014, \$2,189,465,000 is available for awards on July 1, 2014, and \$9,283,383,000 will be available for awards on October 1, 2014. Under the Section 611 formula, in a year in which the amount available for allocations to States increases from the prior year, 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.¹

For FFY 2014, the appropriation for the Preschool Grants program is \$353,238,000. Under the Section 619 formula in a year in which the amount available for allocations to States increases from the prior year and is less than the amount allocated to the States for FFY 1997, State allocations are based on the amount that each State received under Section 619 for FFY 1997, ratably reduced, subject to the requirement that no State's allocation shall be less than its section 619 allocation for the preceding fiscal year.

¹ The amount that a State's allocation may increase from one year to the next is capped at the amount the State received in the prior year multiplied by the sum of 1.5 percent and the percentage increase in the total amount appropriated for Part B of IDEA from the prior year. Additionally, the maximum amount that a State may receive in any fiscal year is calculated by multiplying the number of children with disabilities ages 3 through 21 served during the 2004-2005 academic year in that State by 40 percent of the annual per pupil expenditure (APPE), adjusted by the rate of annual change in the sum of 85 percent of the children aged 3 through 21 for whom that State ensures FAPE and 15 percent of the children living in poverty. Because there are multiple caps, in any year the "effective cap" on a State's allocation is the lowest cap for that State.

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

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

Section 611(e)(1)(C) of the IDEA provides that “[p]rior to expenditure of funds under this paragraph [section 611(e)(1) concerning funds for State administration], the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current.” We read this provision to mean that if a State does not have interagency agreements or other arrangements in place to establish responsibility for the provision of services, the State may not expend funds available to the State under Section 611(e)(1) [State administration funds] until the State has these agreements or arrangements in place.

Under section 608(a)(2) of the IDEA, each State that receives funds under IDEA Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations, and policies that it was required to submit to the Department in Section IV of its IDEA Part B application for this purpose.

The enclosed grant awards of FFY 2014 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.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA section 618(a)(3), the State was required to submit data on the total amount of State financial support made available for special education and related services for children with disabilities in State fiscal year (SFY) 2012 and SFY 2013. If OSEP receives information through audits, fiscal monitoring or other means that raises questions about the data your State has provided in Section V, OSEP will follow-up with your State.

As a reminder, all prime recipients of IDEA (Part B or Part C) funds, must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State’s Fiscal Accountability Facilitator if you have further questions.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with the first name "Melody" and last name "Musgrove" clearly distinguishable.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C
- Enclosure D

cc: State Director of Special Education