



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 9, 2020

The Honorable Eligio Hernandez Perez
Secretary of Education
Puerto Rico Department of Education
P.O. Box 190759
San Juan, PR 00919-0759

Dear Secretary Hernandez Perez:

I am writing in response to a letter sent to the U.S. Department of Education (the Department) on December 17, 2019, by the Puerto Rico Department of Education (PRDE). In the letter, PRDE notified the Department that, due to a procurement issue, it was unable to administer its Spanish language proficiency (SLP) assessment in the 2018-19 school year (SY) and, subsequently, would be unable to report data from that assessment to the Department's *EDFacts* reporting system for SY 2018-19 and use those results in PRDE's accountability system to identify schools for comprehensive and targeted support and improvement in the beginning of SY2019-20.

As you know, sections 1111(b)(2)(G) and 3113(b)(3)(A)-(B) of the Elementary and Secondary Education Act of 1965 (ESEA) require that each State educational agency (SEA) annually assess the English language proficiency (ELP) of all English learners enrolled in public schools (in Puerto Rico, this requires the assessment of Spanish language proficiency, or SLP, for all Spanish learners enrolled in public schools). Furthermore, ESEA section 1111(c)(4)(B)(iv) requires that an SEA's accountability system include a measure of progress in achieving English language proficiency (for PRDE, this requires an indicator measuring progress in achieving Spanish language proficiency). ESEA section 1111(h)(1)(C) has several requirements regarding the use of SLP assessment results in public accountability and reporting.

I know that we agree that it is critical that PRDE administer SLP assessments and report results for those assessments so that educators, students and parents have clear, consistent feedback about how Spanish learners are progressing in learning Spanish. In addition, this matter raises concerns about whether Spanish learners are receiving needed language services. Moreover, without calculating an indicator measuring progress in achieving Spanish language proficiency, PRDE is unable to fully implement its system of annual meaningful differentiation and identify schools that may need assistance on this indicator. While I do not believe that it was PRDE's intention to fail to meet the ESEA requirements, and I appreciate the challenges caused by the recent hurricanes in 2017, I am concerned by this violation and by the fact that the Department was not alerted to this until well after the conclusion of the 2018-19 school year. As a result, I am placing a condition on PRDE's FY 2020 Title I, Part A and Title III, Part A grant awards for failing to administer and report SLP assessment results for all Spanish learners in

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Puerto Rico during the 2018-19 SY. In addition, pursuant to the authority in 2 C.F.R. §§ 200.207 and 3474.10, I am placing PRDE’s FY 2020 Title I, Part A and Title III, Part A grant award on “high-risk” status immediately.

In order to remove this high-risk status and grant condition, PRDE must:

1. Provide, by October 1, 2020, evidence that it has secured a vendor to administer SLP assessments in Puerto Rico for SY 2020-21 and future years.
2. Provide, by June 30, 2021, evidence that it has administered SLP assessments to all Spanish learners enrolled in Puerto Rico public schools in SY 2020-21.
3. Provide, by December 1, 2022, evidence that PRDE has administered a system of annual meaningful differentiation that includes all indicators consistent with ESEA section 1111(c)(4)(B) and identifies schools for comprehensive and targeted support and improvement.

PRDE may request reconsideration of its “high-risk” designation by submitting to me in writing, no later than 10 business days from the date of this letter, a detailed description setting forth the basis for its belief that this designation is improper, including the specific facts that support its position. If PRDE chooses to request such reconsideration, that request must be submitted via e-mail to me, with a copy to: ESEA.Assessment@ed.gov. If I do not receive a request for reconsideration within 10 business days, PRDE’s “high-risk” status for Title I, Part A and Title III, Part A will be considered final and will be lifted only upon completing the actions set forth above.

If PRDE does not provide this information as requested, the Department may take additional action. We appreciate our continued relationship with PRDE and remain committed to working with you. If you have any questions, please contact my staff at: ESEA.Assessment@ed.gov.

Thank you for your continued commitment to ensuring that all students have access to a high-quality education.

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education

cc: Francisco Martinez Oronoz, Auxiliary Secretary of Federal Affairs
Daisy Hernandez Gonzales, Director of Assessment