



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

June 24, 2021

Honorable Eliezer Ramos Perez
Interim Secretary of Education
Puerto Rico Department of Education
P.O. Box 190759
San Juan, Puerto Rico 00919

Dear Interim Secretary Perez:

I am writing to advise you of the U. S. Department of Education's (Department) 2021 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Puerto Rico needs assistance in implementing the requirements of Part B of the IDEA. This determination is based on the totality of the Puerto Rico's data and information, including the Federal fiscal year (FFY) 2019 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

With the FFY 2019 SPP/APR submission, the Office of Special Education Programs (OSEP) requested that States and Entities report whether and how the data collection for any indicator was impacted by the COVID-19 pandemic. Specifically, OSEP requested that States and Entities include in the narrative for each impacted indicator: (1) the impact on data completeness, validity, and/or reliability for the indicator; (2) an explanation of how COVID-19 specifically impacted the State's or Entity's ability to collect and verify the data for the indicator; and (3) any steps the State or Entity took to mitigate the impact of COVID-19 on the data collection and verification. OSEP appreciates States' and Entities' level of transparency regarding the impact of COVID-19 on the data reported in the FFY 2019 SPP/APR. When making determination decisions for 2021, OSEP considered all information submitted that related to the impact of the COVID-19 pandemic. For 2021 determinations, no State or Entity received a determination of "Needs Intervention" due solely to data impacted by COVID-19.

Puerto Rico's 2021 determination is based on the data reflected in the State's "2021 Part B Results-Driven Accountability Matrix" (RDA Matrix). The RDA Matrix is individualized for each State and consists of:

- (1) a Compliance Matrix that includes scoring on Compliance Indicators and other compliance factors;
- (2) a Results Matrix that includes scoring on Results Elements;
- (3) a Compliance Score and a Results Score;
- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) the State's Determination.

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The RDA Matrix is further explained in a document, entitled “How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2021: Part B” (HTDMD).

OSEP is continuing to use both results data and compliance data in making determinations in 2021, as it did for Part B determinations in 2014-2020. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for Puerto Rico.) In making Part B determinations in 2021, OSEP continued to use results data related to:

- (1) the participation and performance of CWD on the most recently administered (school year 2018-2019) National Assessment of Educational Progress (NAEP)¹;
- (2) the percentage of CWD who graduated with a regular high school diploma; and
- (3) the percentage of CWD who dropped out.

You may access the results of OSEP’s review of Puerto Rico’s SPP/APR and other relevant data by accessing the EMAPS SPP/APR reporting tool using your specific log-on information at <https://emaps.ed.gov/suite/>. When you access Puerto Rico’s SPP/APR on the site, you will find, in Indicators 1 through 16, the OSEP Response to the indicator and any actions that Puerto Rico is required to take. The actions that Puerto Rico is required to take are in the “Required Actions” section of the indicator.

It is important for you to review the Introduction to the SPP/APR, which may also include language in the “OSEP Response” and/or “Required Actions” sections.

You will also find all of the following important documents saved as attachments:

- (1) the State’s RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2021 Data Rubric Part B,” which shows how OSEP calculated the State’s “Timely and Accurate State-Reported Data” score in the Compliance Matrix; and
- (4) a document entitled “Dispute Resolution 2019-2020,” which includes the IDEA section 618 data that OSEP used to calculate the State’s “Timely State Complaint Decisions” and “Timely Due Process Hearing Decisions” scores in the Compliance Matrix.

As noted above, Puerto Rico’s 2021 determination is Needs Assistance. A State’s or Entity’s 2021 RDA Determination is Needs Assistance if the RDA Percentage is at least 60% but less than 80%. A State’s or Entity’s determination would also be Needs Assistance if its RDA Determination percentage is 80% or above but the Department has imposed Specific Conditions on the State’s or Entity’s last three IDEA Part B grant awards (for FFYs 2018, 2019, and 2020), and those Specific Conditions are in effect at the time of the 2021 determination. While Puerto Rico’s RDA percentage is 51.79%, for 2021 determinations, the Department is issuing a determination of “Needs Assistance” instead of “Needs Intervention” given that Puerto Rico’s

¹ OSEP has used results data on the participation and performance of children with disabilities on the National Assessment of Educational Progress (NAEP) in making determinations for States (but not Entities) since 2014. Although the BIE is the only Entity that administers the NAEP, OSEP has not used NAEP data in making the BIE’s determinations because the BIE’s NAEP data were previously not available. However, given that the BIE’s NAEP data are now available, OSEP is considering using the NAEP data in making the BIE’s 2022 determination under IDEA section 616(d).

low RDA percentage is directly attributable to Puerto Rico's FFY 2019 SPP/APR assessment data, which were directly impacted by the COVID-19 pandemic as explained further below.

Specifically, Puerto Rico was unable to collect valid and reliable assessment data because it was not able to administer its reading/language arts and mathematics assessments in FFY 2019 as a result of the COVID-19 pandemic. Therefore, Puerto Rico was unable to report data on the participation of children with disabilities in the general statewide assessment and this element of the Results Matrix could not be scored. In addition, because Puerto Rico does not administer the National Assessment of Educational Progress (NAEP), Puerto Rico could only be scored on the existing data elements of the Results Matrix. Therefore, its results matrix score of 25% is based on two elements whereas the results component of Puerto Rico's 2020 determination was based on six elements. Given the impact of the COVID-19 pandemic on Puerto Rico's assessment data, including the effect on Puerto Rico's results score due to the lack of assessment data and NAEP data, OSEP is issuing its determination for Puerto Rico to be "Needs Assistance."

OSEP will continue to impose Specific Conditions on Puerto Rico's FFY 2021 IDEA Part B grant award programmatic and Department-wide Specific Conditions to ensure that Department grant awards are expended by the Puerto Rico Department of Education in accordance with applicable legal requirements; appropriate fiscal accountability measures and management practices and controls; and ensure continued progress in meeting the programmatic requirements of Part B of the IDEA. The specific reporting requirements and other required actions will be described in OSEP's FFY 2021 IDEA Part B grant award documents.

Puerto Rico's determination for 2020 was also Needs Assistance. In accordance with section 616(e)(1) of the IDEA and 34 C.F.R. § 300.604(a), if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions:

- (1) advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance and require the State to work with appropriate entities;
- (2) direct the use of State-level funds on the area or areas in which the State needs assistance;
or
- (3) identify the State as a high-risk grantee and impose Specific Conditions on the State's IDEA Part B grant award.

Pursuant to these requirements, the Secretary is advising Puerto Rico of available sources of technical assistance, including OSEP-funded technical assistance centers and resources at the following website: <https://osep.communities.ed.gov>, and requiring Puerto Rico to work with appropriate entities. In addition, Puerto Rico should consider accessing technical assistance from other Department-funded centers such as the Comprehensive Centers with resources at the following link: <https://compcenternetwork.org/states>. The Secretary directs Puerto Rico to determine the results elements and/or compliance indicators, and improvement strategies, on which it will focus its use of available technical assistance, in order to improve its performance. We strongly encourage Puerto Rico to access technical assistance related to those results elements and compliance indicators for which Puerto Rico received a score of zero. Puerto Rico must report with its FFY 2020 SPP/APR submission, due February 1, 2022, on:

- (1) the technical assistance sources from which the State received assistance; and
- (2) the actions the State took as a result of that technical assistance.

As required by IDEA section 616(e)(7) and 34 C.F.R. § 300.606, Puerto Rico must notify the public that the Secretary of Education has taken the above enforcement actions, including, at a minimum, by posting a public notice on its website and distributing the notice to the media and through public agencies.

States were required to submit Phase III Year Five of the SSIP by April 1, 2021. OSEP appreciates Puerto Rico's ongoing work on its SSIP and its efforts to improve results for students with disabilities. We have carefully reviewed and responded to your submission and will provide additional feedback in the upcoming weeks. Additionally, OSEP will continue to provide technical assistance to Puerto Rico as it implements the SSIP, which is due on February 1, 2022.

As a reminder, Puerto Rico must report annually to the public, by posting on the State educational agency's (SEA's) website, the performance of each local educational agency (LEA) located in the State on the targets in the SPP/APR as soon as practicable, but no later than 120 days after the State's submission of its FFY 2019 SPP/APR. In addition, Puerto Rico must:

- (1) review LEA performance against targets in the State's SPP/APR;
- (2) determine if each LEA "meets the requirements" of Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA;
- (3) take appropriate enforcement action; and
- (4) inform each LEA of its determination.

Further, Puerto Rico must make its SPP/APR available to the public by posting it on the SEA's website. Within the upcoming weeks, OSEP will be finalizing a State Profile that:

- (1) includes the State's determination letter and SPP/APR, OSEP attachments, and all State attachments that are accessible in accordance with Section 508 of the Rehabilitation Act of 1973; and
- (2) will be accessible to the public via the ed.gov website.

OSEP appreciates Puerto Rico's efforts to improve results for children and youth with disabilities and looks forward to working with Puerto Rico over the next year as we continue our important work of improving the lives of children with disabilities and their families. Please contact your OSEP State Lead if you have any questions, would like to discuss this further, or want to request technical assistance.

Sincerely,



David Cantrell, PhD

Acting Director

Office of Special Education Programs

cc: State Director of Special Education