

**DEPARTMENT OF EDUCATION****Compliance Agreement**

**AGENCY:** Department of Education.

**ACTION:** Notice of written findings and compliance agreement with the Commonwealth of Puerto Rico and the Puerto Rico Department of Education.

**SUMMARY:** This notice is being published in the **Federal Register** consistent with section 457(b)(2) of the General Education Provisions Act (GEPA). Section 457 of GEPA authorizes the U.S. Department of Education (the Department) to enter into a compliance agreement with a recipient that is failing to comply substantially with Federal program requirements, and for whom the Department determines that full compliance is not feasible until a future date. Section 457(b)(2) requires the Department to publish written findings leading to a compliance agreement, with a copy of the compliance agreement, in the **Federal Register**. If a recipient fails to comply with the terms and conditions of a compliance agreement, the Secretary may take any action authorized by law with respect to the recipient.

On December 17, 2007, the Department entered into a three-year compliance agreement (the Agreement) with the Commonwealth of Puerto Rico (Puerto Rico) and the Puerto Rico Department of Education (PRDE) because PRDE was failing to comply substantially with numerous Federal education program requirements, and it was clear to the Department from all available information that PRDE would not be able to come into full compliance with applicable Federal requirements for the administration of Department programs until a future date.

PRDE receives grant funds under a number of programs administered by the Department, including programs authorized under Titles I, II, and IV of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA), Title IV of the Higher Education Act of 1965, as amended (HEA), and the Individuals with Disabilities Education Act (IDEA). As a result of program monitoring and audits, the Department has identified numerous program areas requiring corrective action by PRDE. Specifically, the Agreement applies to grant funds awarded to Puerto Rico and PRDE by the Department under Titles I, II, and IV of ESEA, Title IV of HEA, and IDEA. The purpose of the Agreement is to improve education for the students of Puerto Rico by bringing Puerto Rico and

PRDE into full compliance with the Department's program requirements.

**FOR FURTHER INFORMATION CONTACT:** Mr. Phil Maestri, U.S. Department of Education, Office of the Secretary, 400 Maryland Avenue, SW., room 7E206, Washington, DC 20202-6132. Telephone: (202) 205-3511.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

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**SUPPLEMENTARY INFORMATION:** In recent years, PRDE has been putting forth efforts and working, with technical assistance provided by the Department, to make important changes to improve education services to Puerto Rico's students in accordance with special conditions the Department has imposed on PRDE's grants. These efforts were part of an initiative undertaken in 2003 between PRDE and the Department, under the Department's Cooperative Audit Resolution and Oversight Initiative (CAROI), and under a compliance agreement entered into by the Department and PRDE in October 2004 (October 2004 Compliance Agreement) (see 72 FR 60186-99).

The October 2004 Compliance Agreement primarily addressed systemic problems in PRDE's program administration and management of Federal education funds in areas such as grants management, payroll, financial management, property management and procurement. The Department identified these systemic problems through numerous audits of PRDE that it conducted beginning in 1994. Subsequently, in the process of monitoring PRDE's implementation of various Department programs, the Department identified significant programmatic issues under a number of PRDE's education programs, including programs authorized under Titles I, II, and IV of ESEA, Title IV of HEA, and IDEA. The Department determined that these significant programmatic issues rose to the level of programmatic non-compliance by PRDE.

In accordance with the requirements of section 457(b) of GEPA, 20 U.S.C 1234f(b), on October 26, 2007, Department officials conducted a public hearing in Puerto Rico to assess whether a compliance agreement with Puerto Rico and PRDE addressing the numerous areas of programmatic non-

compliance might be appropriate. Witnesses representing PRDE and other concerned individuals testified at this hearing. The Department considered the testimony provided at the October 2007 public hearing and all other relevant information and materials and concluded that PRDE would not be able to correct the areas of programmatic non-compliance immediately and would need more than one year to correct the identified programmatic deficiencies.

Therefore, the Department, Puerto Rico and PRDE entered into a comprehensive compliance agreement with a three-year term. The Agreement, which incorporates and reflects the Department's written findings based on the hearing testimony and other relevant information and materials, gives PRDE three years to develop effective, long-term solutions to problems in the performance and administration of its Department programs. Under the terms of the Agreement, by the end of the three-year term of the Agreement, PRDE must be in full compliance with the requirements of all programs funded by the Department.

As required by section 457(b)(2) of GEPA, 20 U.S.C. 1234f(b)(2), the Agreement (which incorporates the Department's written findings in the section entitled "Overview of Issues Addressed by this Compliance Agreement") is set forth as Appendix A of this notice.

*Electronic Access to This Document*

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**Note:** The official version of a document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

(Authority: 20 U.S.C. 1234c, 1234f)

Dated: May 16, 2008.

**David Dunn,**

*Chief of Staff for the Office of the Secretary.*

**Appendix A—Compliance Agreement Among the Commonwealth of Puerto Rico, the Puerto Rico Department of Education, and the United States Department of Education, December 17, 2007**

**I. Overview**

*Purpose of and Issues Addressed By This Compliance Agreement*

The purpose of this Agreement is to improve education for the students of Puerto Rico by bringing the Commonwealth of Puerto Rico (Puerto Rico) and the Puerto Rico Department of Education (PRDE) into full compliance with program requirements of the U.S. Department of Education (the Department) (Puerto Rico, PRDE, and the Department shall hereafter collectively be referred to as “the Parties”). The Department awards grants to PRDE under a number of Federal education programs. As a result of program monitoring and audits, the Department has identified several program areas requiring corrective action by PRDE. The programs under which PRDE receives funds from the Department and in which corrective action is necessary, include Titles I, II, and IV of the Elementary and Secondary Education Act (ESEA), Title IV of the Higher Education Act of 1965, and the Individuals with Disabilities Education Act (IDEA) (hereafter “covered Federal programs”).

In recent years, PRDE has been putting forth efforts to make important changes to improve education services to Puerto Rico’s students in accordance with special conditions imposed by the Department on PRDE’s grants, with technical assistance provided by the Department. These efforts were part of an initiative undertaken in 2003 between PRDE and the Department, under the Department’s Cooperative Audit Resolution and Oversight Initiative (CAROI), and under a Compliance Agreement entered into by the Department and PRDE in October 2004. The October 2004 Compliance Agreement primarily addressed systemic problems in PRDE’s program administration and management of Federal education funds. Those problems were uncovered and identified by numerous audits of PRDE beginning in 1994.

With regard to the more recent program compliance issues uncovered by the Department’s monitoring of PRDE’s Federal programs, it appears that it will take more than one year for

PRDE to completely address those programmatic issues. It will also take more than one year to establish the continued cooperation of other parts of the Puerto Rico government in this effort, such as the Puerto Rico Department of the Treasury (Hacienda) and PRDE’s Office of Management and Budget. Therefore, under the authority of section 457 of the General Education Provisions Act (GEPA), the Department is entering into this comprehensive, three-year Compliance Agreement (Agreement) with Puerto Rico and PRDE.

Through this Agreement, Puerto Rico and PRDE, with technical assistance from the Department, agree to develop and implement solutions to PRDE’s program performance and program implementation problems. These programmatic issues are being carefully examined and addressed from the perspective of PRDE and other Puerto Rico agencies with management responsibility for resources or programs that have an impact on education in Puerto Rico and on PRDE’s administration of Federal education funds. Whatever the solutions Puerto Rico and PRDE have chosen to implement, as reflected in this Agreement, Puerto Rico and PRDE must ensure that their goal is to achieve the best educational systems possible for the students of Puerto Rico.

This Agreement is also intended to ensure an effective planning and evaluation process throughout PRDE’s programs and initiatives. Planning and evaluation processes are the basis for determining program goals, current status, improvement needs, budgets, resources, effectiveness of results, and other important aspects of effective program management. Through this Agreement, Puerto Rico and PRDE will improve program planning and evaluation for education programs and use the plans and evaluation results to drive management and resource decisions.

This Agreement will allow PRDE time to develop and implement significant changes and improvements necessary to address the deficiencies that the Department has identified in PRDE’s implementation of the covered Federal programs and to come into full compliance with identified Federal program requirements. At the end of this three-year period, PRDE must be in full compliance with all applicable program requirements in order to continue to receive Federal education funds under these programs.

*Incorporation By Reference of Corrective Action Plans*

This Agreement lists specific tasks, goals, completion dates, and persons and offices responsible for carrying out specific tasks for each program area. Corrective Action Plans for each program area will contain action steps and sub-steps, measurable objectives, and detailed corresponding timelines. Under the terms of the Corrective Action Plans, PRDE and identified persons and offices will be responsible for addressing the underlying problems to be resolved by Puerto Rico’s compliance with each task, goal, and action step. PRDE will submit a draft of each Corrective Action Plan to the Department by February 1, 2008. The Department will respond to PRDE’s drafts by February 20, 2008. Following consultations and discussions, the plans will be completed by the Parties by March 15, 2008 and are incorporated into this Agreement by reference. The Corrective Action Plan for ESEA, Title I, Standards and Assessments, is complete and is incorporated by reference into this Agreement at its signing as Attachment A. Hereinafter, each reference in this Agreement to the “Agreement,” is intended to include the Corrective Action Plans. Failure by PRDE to come to agreement with the Department on specific Corrective Action Plans for each of the program areas covered in this Agreement will render each such section of this Agreement null and void.

*Review of Progress*

The Department will review Puerto Rico’s and PRDE’s progress in meeting the terms of this Agreement by assessing how well Puerto Rico and PRDE design and implement solutions to the programmatic compliance issues in the covered Federal programs that are addressed below, by the demonstrated communication, cooperation, and organizational changes undertaken by Puerto Rico, PRDE, and other Puerto Rico agencies with management responsibility for Federal education funds, and by assessing Puerto Rico’s and PRDE’s completion of specific agreed-upon corrective action steps. The approaches adopted by Puerto Rico and PRDE should include effective planning and evaluation of resource and management decisions that are designed to result in compliance with all programmatic requirements by the end of the period covered by this Agreement, and to produce better educational results for Puerto Rico students.

In making the changes required to meet the terms of this Agreement, it is important to understand that the Agreement is not only designed to bring about compliance with Federal programmatic requirements but to improve education for the students of Puerto Rico. The Department, Puerto Rico, and PRDE will judge the success of this Agreement by: determining whether PRDE has met all the terms of this Agreement, assessing whether PRDE is in compliance with all Federal programmatic requirements identified below, and determining how successful Puerto Rico has been overall in improving its educational programs.

## II. Consequences of Not Meeting the Terms and Conditions of This Agreement

There will be consequences should PRDE and Puerto Rico fail to meet the terms of this Agreement. Among possible consequences are:

### A. Designation of PRDE as a "High-Risk" Grantee Under 34 CFR 80.12

If, during the period covered by this Agreement, PRDE and Puerto Rico fail to demonstrate that they are making reasonable progress toward meeting the terms of this Agreement, or fail to demonstrate an active, good faith commitment to meeting the terms of this Agreement, the Department may exercise its authority to designate PRDE a "high-risk" grantee. In addition, if, at the termination of this Agreement, PRDE has failed to come into compliance with the education program requirements addressed in this Agreement, the Department may exercise its authority to designate PRDE a "high-risk" grantee.

As is addressed more fully below, if the Department chooses to designate PRDE as a "high-risk" grantee, additional special conditions or restrictions may include, but will not necessarily be limited to: (1) Payment of Federal funds on a reimbursement basis; (2) withholding the authority to proceed to the next phase of a program until receipt of evidence of acceptable performance within a given funding period; (3) requiring PRDE to submit to the Department additional, more detailed financial reports than those already being submitted in one or more programs; (4) requiring additional project monitoring; (5) requiring PRDE to obtain technical or management assistance, including the designation of a third-party fiduciary to administer all or part of PRDE's grants from the Department; or (6) establishing additional prior approvals. The use of a condition for one covered Federal

program does not require or preclude its use for a different covered Federal program.

In the event that the Department decides to designate PRDE as a "high-risk" grantee, it would notify PRDE as early as possible, in writing, of the: (1) Nature of additional special conditions and restrictions; (2) reason(s) for imposing them; (3) corrective actions that must be taken before special conditions will be removed and time allowed for completing any additional corrective actions; and (4) method of requesting reconsideration of conditions and restrictions imposed.

### B. Reimbursement Grant Payments

For one or more covered Federal programs, the Department may decide to place PRDE on a cost reimbursement method of payment rather than on an advance payment method of payment. Cost reimbursement would require PRDE to submit to the Department receipts and other documentation necessary to support all PRDE program expenditures and the Department would release Federal program funds to PRDE only after approving each of PRDE's expenditures as allowable costs.

### C. Requiring PRDE To Contract With a Third-Party Fiduciary To Oversee PRDE's Education Program Administration

If, during the period covered by this Agreement, PRDE and Puerto Rico fail to demonstrate reasonable progress toward meeting the terms of this Agreement, fail to demonstrate an active, good faith commitment to meeting the terms of this Agreement, or fail to meet a significant term in this Agreement, the Department may place an appropriate amount of Puerto Rico's or PRDE's grant funds into an interest bearing escrow account to fund the duties of a third-party fiduciary agent and require PRDE and Puerto Rico to enter into a contract with a third-party fiduciary agent to assist PRDE and Puerto Rico with the administration of its Federal education grant programs.

### D. Requiring PRDE To Operate One or More Programs Under the Terms of a Cooperative Agreement With the Department

If, during the period covered by this Agreement, PRDE and Puerto Rico fail to demonstrate reasonable progress toward meeting the terms of this Agreement, fail to demonstrate an active, good faith commitment to meeting the terms of this Agreement, or fail to meet a significant term in this Agreement, under authority of the Federal Grant and Cooperative

Agreement Act of 1977 (31 U.S.C. 6301-6308), the Department may determine that substantial involvement by the Department in PRDE's program grant administration is necessary in one or more covered Federal programs and award one or more education grants to PRDE under the terms of corresponding Cooperative Agreements, in lieu of issuing grant award notifications. If determined by the Department to be necessary, one or more Cooperative Agreements between the Department and PRDE will be drafted and their terms applied to the management of one or more projects, after which the Department will provide education program assistance to PRDE with the Department having substantial direct involvement in the management of the affected program project(s).

Specifically, if the Department chooses to require PRDE to administer one or more of its covered Federal programs under the terms of a Cooperative Agreement, the relationship between the Department and PRDE will be characterized as follows:

(1) The Department will halt a PRDE program activity immediately, if detailed performance specifications or requirements are not met;

(2) The Department will review and approve one stage of work before PRDE can begin a subsequent stage during the period covered by the award;

(3) The Department will review substantive provisions of PRDE's proposed contracts;

(4) The Department will be directly involved in the selection of key PRDE personnel;

(5) The Department will collaborate with PRDE or participate jointly with PRDE in program activities;

(6) The Department will undertake monitoring that permits it to direct or redirect specific program work or activities, for example, because of interrelationships with other projects;

(7) The Department will have substantial and direct operational involvement and participation in anticipated or planned projects, before an award is made, to ensure compliance with statutory requirements;

(8) The Department will generally participate closely with PRDE in program administration in such a way as to exceed what is normally undertaken to comply with general statutory requirements that are a condition of every award; and

(9) The Department will establish highly prescriptive requirements before an award is made, so as to limit PRDE's discretion with respect to the scope of services offered, organizational

structure, staffing, mode of operations and other management processes.

*E. Withholding, Termination, or Suspension of Grant Funds—20 U.S.C. 1234c(a)(1), 1234d, and 1416*

If the Department finds, after reasonable notice and after providing PRDE and Puerto Rico with an opportunity for a hearing, that PRDE has failed to comply with a requirement of law, including with those program requirements specifically identified and discussed in this Agreement, the Department may, after notifying Puerto Rico or PRDE, withhold future grant payments in whole or in part, or terminate one or more of PRDE's grants. The Department may limit withholding to a particular Federal grant or part of a grant.

*F. Recovery of Funds Under Authority of 20 U.S.C. 1234a*

Any program funds improperly expended by PRDE or not properly accounted for by PRDE will be subject to recovery by the Department under authority of 20 U.S.C. § 1234a.

*G. Judicial Enforcement*

1. Cease and Desist Order Under 20 U.S.C. 1234c(a)(2) and 1234e

The Department may seek injunctive relief to compel specific actions or to stop specific actions. Under this process, the Department issues a complaint to Puerto Rico or PRDE, describing the factual and legal basis for the Department's belief that Puerto Rico or PRDE is failing to comply with a requirement of law, including this Agreement, and containing a notice of hearing. A hearing before an Administrative Law Judge (ALJ) could then occur. The ALJ's report and order, requiring Puerto Rico or PRDE to stop specific actions or compelling specific actions, becomes the final agency decision. The Department may enforce the final order by withholding any portion of Puerto Rico's or PRDE's grant award or certifying the facts to the U.S. Attorney General who may bring an appropriate action for enforcement of the order.

2. Referral to the U.S. Department of Justice for Appropriate Enforcement—20 U.S.C. 1416

If the Department finds that Puerto Rico or PRDE has failed to comply with any provision of applicable Federal laws (with regard to the programs to which 20 U.S.C. 1416 applies) (including with the terms and timelines of this Agreement), the Department may, after notifying Puerto Rico or PRDE, refer the matter for an appropriate enforcement

action, which may include referral to the U.S. Department of Justice.

**III. Mutual Agreements and Understandings Regarding the Terms, Conditions, and Enforcement of This Compliance Agreement**

*Presentation of Documents, Reports, and Other Materials in English*

PRDE will submit all documentation, reports, summaries, updates, or other materials to the Department under the terms of this Agreement, to demonstrate progress toward compliance with the terms of this Agreement, in English. In the case of original supporting documents written in Spanish, PRDE will, to the extent reasonable and as mutually agreed upon by the Parties, provide such documents to the Department accompanied by translations from Spanish to English that are attested to by PRDE.

*Criteria for Determining Compliance and Consequences of Non-Compliance*

Puerto Rico or PRDE will provide the Department with progress reports—as required in Section IV below—for the action steps set forth in this Agreement. Puerto Rico, PRDE, and the Department agree that a failure to: (1) Provide all required reports in a timely manner, (2) show progress in completing action steps, as required by this Agreement, (3) complete action steps within the timeframes designated in this Agreement, or (4) achieve critical measurable objectives as specified in the Corrective Action Plans incorporated into this Agreement, will be considered a failure to meet the terms and conditions of this Agreement.

*Severability*

The Parties agree that this Agreement includes terms and conditions that apply to the various Federal programs included in the Agreement. To that end, the Parties agree that each such term and condition for each covered Federal program may constitute a separate agreement among Puerto Rico, PRDE, and the Department. For purposes of 20 U.S.C. 1234f, each such term or condition as to each covered Federal program shall be severable from each other term or condition for each of the covered Federal programs. Unless set out otherwise, a determination by the Department under 20 U.S.C. 1234f (d) that Puerto Rico or PRDE is not meeting terms and conditions may be specific to such term, condition, or program without impacting Puerto Rico's or PRDE's continuing obligations under this Agreement. That is, all other terms and conditions for all covered Federal

programs or the specific term or condition for other covered Federal programs would remain in place for the duration of the Agreement, or until such time as the Department were to determine that Puerto Rico or PRDE had failed to meet those terms and conditions.

Alternatively, the Parties understand and agree that a determination by the Department under 20 U.S.C. 1234f(d) that Puerto Rico or PRDE has failed to meet any of the terms and conditions shall, at the Department's discretion, be grounds for finding the Agreement, as to such terms and conditions, no longer in effect and that the Department may take any and all additional actions authorized by law. At the same time, if Puerto Rico or PRDE fails to meet the terms and conditions of this Agreement, the Department may terminate the entire Agreement, and may take any and all actions authorized by law. Some examples of such actions are set forth above.

*Fraudulent Activity*

In the event that fraudulent activity in the administration of Federal education funds in Puerto Rico is uncovered in one or more programs—by an independent audit, PRDE's Internal Audit Office, the Department's Office of Inspector General, a Department program review team, a Department monitoring team, or by any other party—the terms of this Agreement pertaining to the affected program may be deemed null and void. In addition, in the event that such fraudulent activity is uncovered, following written notice to PRDE, the Department will take whatever actions it deems appropriate, including withholding Federal funds for the affected program.

**IV. Reporting Requirements**

Under this Agreement, PRDE agrees to submit regular progress reports covering all program and performance issues. Generally, and unless the Department requires more frequent reporting, Puerto Rico and PRDE must provide the Department with progress reports on a quarterly basis.

PRDE's submission of each written report will be preceded by a meeting or conference call among representatives of Puerto Rico (which may include representatives of the Puerto Rico agencies mentioned in Section I above), PRDE, and the Department, within five business days (according to PRDE's business calendar) of the end of the quarter, to discuss Puerto Rico's and PRDE's progress and the level of detail the Department wants Puerto Rico and PRDE to include in its written quarterly

report that will be submitted within fifteen business days (according to PRDE's business calendar) of the call or meeting. The Parties may modify this schedule by mutual agreement.

Subject to the meeting or call above, in general, each quarterly report will include information such as: (1) A description of activities and progress for each task and its related sub-tasks during the reporting period, (2) the status of each critical action step required to be taken during the reporting period, (3) detailed documentation of critical action step completion for those steps required to be completed during the reporting period (including explanations of delays for all steps not completed that were scheduled to be completed during the period, and expected completion dates for all unimplemented steps), (4) documentation of measures of performance and results, and (5) other data or documentation as specified within the action steps for each task or related sub-task in this Agreement, and/or discussed in the pre-report meeting among the Department, Puerto Rico, and PRDE.

Per discussions with the Department, Puerto Rico and PRDE will transmit reporting information to the Department via e-mail and/or an Internet web site. If transmittal of the reporting information is not possible via a website, Puerto Rico and PRDE will continue to be responsible for tracking, monitoring, and reporting progress on all requirements and milestones in this Agreement, in English and in a manner that is fully accessible to the Department and the public. Reporting information will be updated continuously, but in any event, on a quarterly basis, no later than within fifteen business days (according to PRDE's business calendar) from the day of the call or meeting among the Department, Puerto Rico, and PRDE, specifying the specific reporting required for that quarterly period. These reports also will fulfill the reporting requirements required under PRDE's special conditions that are currently in effect, or as modified.

The first quarterly period will encompass the time from which the Parties sign this Agreement through March 31, 2008. Within the first forty-five days of the signing of this Agreement, the Department will work with PRDE to agree on a more rigorous reporting schedule for reporting progress during the first six months following the signing of this Agreement (the early implementation phase of this Agreement).

#### **V. Independent Internal Audit Office and Audit Committee**

PRDE commits to full implementation of its Internal Audit Office (IAO) and its Audit Oversight Committee (the Committee) in accordance with the terms of the IAO and Committee charters. Both signed charters are attached to this Agreement and are hereby incorporated by reference as Attachment B. Therefore, under the terms of this Agreement, PRDE commits to an IAO that is fully independent, staffed, and trained.

#### **VI. Corrective Action Plans, Action Steps, and Timelines**

##### *Corrective Action Plans*

With the exception of the Title I, Standards and Assessments Corrective Action Plan, which is attached and incorporated into this Agreement at the signing as Attachment A, Corrective Action Plans, that address each area of noncompliance are to be completed and incorporated into this Agreement by March 15, 2008. The Corrective Action Plans will either address specifically the action steps and timelines that are included in the task descriptions in this Agreement, or the Corrective Action Plans will delineate one or more alternative approaches that will be used to bring PRDE and Puerto Rico into compliance with Department requirements. Alternative approaches may include: (1) Consolidating administrative funds under §§ 9201 and 9203 of the ESEA; (2) Utilizing Federal funds to establish and operate a Statewide system of intensive and sustained support and improvement (Statewide system of support, § 1117 of the ESEA) for schools funded under Title I, ESEA including schoolwide programs under § 1114 of Title I, (3) Transferring funds, under §§ 6121–6123 of the ESEA, (4) Contracting for technical assistance services from a qualified and experienced third-party providers and receiving services from the Florida and the Islands Regional Comprehensive Center (FLICC); and/or (5) Contracting for specific services under one or more of the covered Federal programs.

##### *Schoolwide Programs*

Under § 1114 of Title I of the ESEA, the Department authorizes schools with concentrations of poverty of at least 40 percent, to use Title I funds, along with other Federal, State, and local funds, to operate a schoolwide program that upgrades the entire education program in the school to improve the academic performance of all students, but especially the lowest achieving

students. To operate a schoolwide program, a school must conduct a comprehensive needs assessment of the entire school and, using data from the needs assessment, develop a comprehensive plan that meets the requirements of § 1114(b) of the Title I of the ESEA and § 200.27 of the Title I regulations. In operating a schoolwide program, a school may consolidate funds from Federal, State, and local sources into one "pool" of funds and is not required to account for those funds separately, provided that the school meets the intent and purposes of the programs included in the consolidation. This differs from a Title I "targeted assistance" program, where Title I funds may be used only for supplementary support services for specific students identified as being most at risk of not meeting State standards.

Under § 1114, Federal, State, and local funds, may be combined so that PRDE would operate Federal education programs with greater flexibility, improve its entire educational program, and improve the academic achievement of all Puerto Rico students. A Schoolwide program differs from a Title I, Part A "targeted assistance" program, where Title I funds may be used only for supplementary support services for targeted students identified as being most at risk of not meeting State standards.

As part of the Corrective Action Plan, PRDE agrees to report to the Department with regard to which funds have been consolidated into PRDE's schoolwide programs, including funds awarded under Title I of ESEA, and how PRDE is undertaking a comprehensive reform strategy to improve the academic achievement of all students in each eligible Puerto Rico school, particularly the lowest achieving students. In addition, PRDE and the Department may determine that they should consider additional ways for improving the operation of schoolwide programs, including alternative arrangements for the management and operations of schoolwide programs in Puerto Rico, such as management at the regional level and operation at the school level.

##### *Continuous and Meaningful Reassessment of Compliance Status*

The Department, with PRDE and Puerto Rico, will continuously reassess the action steps and timelines in this Agreement and in the various Corrective Action Plans to determine whether: (1) The action steps fully meet the requirements of this Agreement, (2) the action steps will move Puerto Rico and PRDE toward achieving required measurable objectives, and ultimately,

full programmatic compliance within three years, and (3) the timelines' need to be modified within the time boundaries set forth in this Agreement.

#### *Additional Areas To Be Covered by Corrective Action Plans*

The Corrective Action Plans for which Puerto Rico and PRDE will be accountable are critical to PRDE and Puerto Rico's compliance with each task and sub-task in this Agreement. Once Puerto Rico and PRDE develop Corrective Action Plans that address each task or sub-task in this Agreement, or that are based on an alternative approach for addressing compliance, and the Department agrees to the revised Corrective Action Plans, the action steps and timelines in the Corrective Action Plans will become additional requirements of this Agreement and will be subject to the reporting requirements and consequences as set forth in this Agreement. The Department will assist by consulting with Puerto Rico and PRDE to develop reports or reporting formats that satisfy the reporting requirements set forth in this Agreement. The Department will also assist Puerto Rico and PRDE, to the extent that resources are available, with training personnel and technical assistance.

#### **VII. General Measurable Objectives**

Puerto Rico, PRDE, and the Department agree that the following measurable objectives apply for each task and sub-task contained in this Agreement and that will be in the Corrective Action Plans that are to be incorporated into this Agreement by March 15, 2008:

1. PRDE plans, other documents, and reports are timely, provided to the Department in English, complete, accurate, and address the requirements set forth in this Agreement.

2. PRDE implements action steps within the timeframes set forth in this Agreement and in the Corrective Action Plans to be developed.

3. PRDE's implementation of sub-tasks and action steps demonstrates progress towards achieving the outcomes or measurable objectives set forth in this Agreement or in the Corrective Action Plans to be developed.

The remainder of this Agreement provides task descriptions, goals, and action steps for the program areas in the covered Federal programs addressed in this Agreement. By signing this Agreement, Puerto Rico and PRDE commit to taking the necessary actions

to be in full compliance, by the end of the three-year period covered by this Agreement, with the program requirements applicable to all Department grants for which Puerto Rico and PRDE expend funds and any other requirements set forth in this Agreement, unless the Department determines that an alternative approach to program compliance as delineated in one or more Corrective Action Plans is the approach by which PRDE can best serve the educational needs of its students, as provided for in Section VI of this Agreement. Puerto Rico and PRDE commit to full implementation of this Agreement, and in greater detail, of the action steps in the PRDE Corrective Action Plans that will be incorporated by reference into this Agreement.

#### **VIII. Tasks**

Because the stated purpose of this Agreement is to improve education for the students of Puerto Rico, it is critical to the success of this Agreement that Puerto Rico and PRDE develop and refine long-term goals, assess the current status of each program receiving Federal assistance, and design coherent plans to bridge the gap between the current status of education in Puerto Rico and its goals of improving education and fully complying with all Federal program requirements.

This "Tasks" section represents what the Parties have generally agreed to at the time of execution of this Agreement. With the exception of the Standards and Assessments Corrective Action Plan, some of the subtasks and steps set forth below may be modified by mutual consent of the Department, Puerto Rico, and PRDE, in the Corrective Action Plans that will be developed by March 15, 2008. If modifications are made to the subtasks and steps set forth below through the Corrective Action Plans, they will be incorporated by reference into this Agreement.

#### **Title I, ESEA**

##### *Task 1.0: Title I—Standards and Assessments (Attachment A)*

##### **Overall Task Description**

Title I of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), requires Puerto Rico and PRDE to develop content and performance standards and to develop and implement an appropriate assessment system. Puerto Rico and PRDE have failed to meet certain of the statutory and regulatory requirements in these areas.

Specific action steps that PRDE must meet to come into compliance with the standards and assessment requirements

of Title I have been articulated and are hereby attached and incorporated by reference into this Agreement. As with all other programmatic issues included in and addressed by this Agreement, Puerto Rico and PRDE must timely submit documentation concerning their compliance with the action steps regarding standards and assessments in accordance with Section IV of this Agreement.

*Responsible Offices/Persons:* Carmen Ayuso, Janet De Jesus, Angel Canales.

##### *Task 2.0: Title I—Improvement of Programmatic Performance*

*Goal:* Develop and implement procedures that ensure proper computation and allocation of programmatic fiscal requirements.

*Completion Date:* July 31, 2009.

*Responsible Offices/Persons:* Janet De Jesus, Carmen M. Rivera, Edna Ramos.

*Sub-Task 2.1: Title I Programmatic Fiscal Procedures—Formalize comparability procedures so they are standardized and consistent with Title I fiscal guidance provided by the Department.*

*Completion Date:* July 31, 2008.

*Sub-Task 2.2: Develop and implement procedures that ensure the proper allocation of reserved school improvement funds to schools in improvement, corrective action, or restructuring, through the following steps:*

- Develop formal policies and procedures.
- Disseminate policies and procedures.
- Train relevant staff on policies and procedures.
- Monitor implementation of policies and procedures.

*Completion Date:* July 31, 2009.

##### *Task 3.0: Adequate Yearly Progress (AYP)*

*Goal:* To develop and implement an approved plan for the timely calculation of AYP, consistent with all statutory and regulatory requirements.

*Completion Date:* August 1, 2008.

*Responsible Offices/Persons:* Carmen Ayuso, Janet De Jesus, Angel Canales.

*Sub-Task 3.1: Establish the manner in which AYP will be calculated in a timely manner consistent with all statutory and regulatory requirements.*

*Completion Date:* August 1, 2008.

*Sub-Task 3.2: Train relevant PRDE staff in, and confirm their understanding of, the AYP requirements and the use of AYP to make school improvement decisions.*

*Completion Date:* August 1, 2008.

*Task 4.0: Accountability Requirements*

*Goal:* To develop and implement a methodology by which PRDE will comply with all ESEA Title I accountability requirements.

Completion Date: December 31, 2008 (unless otherwise agreed to in the Corrective Action Plan).

Responsible Offices/Persons: Carmen Ayuso, Angel Canales, Janet De Jesus.

Sub-Task 4.1: Make final determination as to what methodology PRDE will use to include small schools in the accountability system.

Completion Date: June 30, 2010 (unless otherwise specified in the Corrective Action Plan).

Responsible Offices/Persons: Carmen Ayuso, Angel Canales, Janet De Jesus.

Sub-Task 4.2: Establish the manner in which the graduation rate will be calculated in accordance with statutory and regulatory requirements.

Completion Date: December 31, 2008 (unless otherwise agreed to in the Corrective Action Plan).

Responsible Offices/Persons: Carmen Ayuso, Angel Canales, Janet De Jesus

Sub-Task 4.3: Develop and implement procedures that ensure PRDE's adherence to and compliance with all State and local report card requirements by:

- Including PPEA results and information on accommodations on separate forms.
- Including all "Subgroup" assessment information.
- Migrating all Highly Qualified Teacher (HQT) classroom level data from the data warehouse into the school report card.
- Developing State and local report card templates.

Completion Date: December 22, 2008.

Responsible Offices/Persons: Carmen Ayuso, Angel Canales, Janet De Jesus.

Sub-Task 4.4: Establish specific procedures that will ensure that PRDE adheres to and complies with all Federal School Improvement and School Level Planning requirements and ensure the implementation of the required activities for schools in improvement, corrective action, restructuring, and alternative governance.

Completion Date: June 30, 2008.

Responsible Offices/Persons: Norma Mendez, Lisandra Fradera, Zoraida Mercado, Rafael Cruz, Angel Canales.

Sub-Task 4.5: Assessments should be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards. AYP shall be defined by the State in a manner that is statistically valid and reliable. PRDE shall:

- Develop assessment quality control procedures to ensure that its assessment contractors are scoring assessments accurately using professionally recognized procedures and processes.

- Develop written procedures to address any failure of contractors to deliver assessment materials and results in a timely manner.

- Develop internal procedures for monitoring the accuracy of assessment data that it provides to the public and guidelines to ensure that all students are being assessed appropriately on an annual basis.

- Modify its appeals process for assessment and accountability to ensure that corrections are made well in advance of the beginning of the next school year by which the accurate data must be reported.

Completion Date: May 2009 (unless otherwise specified in the Corrective Action Plan).

Responsible Offices/Persons: Carmen Ayuso, Carmen Ramos, Angel Canales.

Sub-Task 4.6: Implement all required components as identified in Puerto Rico's accountability workbook. PRDE shall:

- Develop a process with clear and objective guidelines to ensure that all schools, especially schools with enrollments that fall below the minimum sample size, are included in AYP decisions.

- Train appropriate staff on the business rules and policies used by PRDE in making AYP decisions.

- Review procedures for coding student test booklets so that the responsibility for coding information, such as whether the student has been enrolled for a full academic year, is not placed primarily in the hands of students, especially at the elementary level.

- Develop a timetable for reporting AYP determinations so that parents are aware of their children's school's status prior to the beginning of each school year.

Completion Date: June 2010 (unless otherwise specified in the Corrective Action Plan).

Responsible Offices/Persons: Carmen Ayuso, Carmen Ramos, Angel Canales, Janet De Jesus.

Sub-Task 4.7: Publish an annual report card and an Annual Report to the Secretary. PRDE shall:

- Develop and publish its SEA/LEA and school report cards including all of the required NCLB reporting elements, as specified in section 1111(h) of ESEA.

- Provide to the Department templates, an updated timeline, and operational details for the report cards at each level.

Completion Date: December 2008.

Responsible Offices/Persons: Carmen Ayuso, Carmen Ramos, Angel Canales.

Sub-Task 4.8: PRDE indicates how funds received under Grants for State Assessments and Related Activities (section 6111) will be or have been used to meet the 2005–06 and 2007–08 assessment requirements under NCLB.

- PRDE must provide the Department with a full accounting of how it has expended section 6111 State assessment funds for the last three Federal fiscal years.

Completion Date: December 2008.

Responsible Offices/Persons: Rafael Cruz, Carmen Ramos.

*Task 5.0: Activities for Schools in Corrective Action, Improvement, Restructuring, and Alternative Governance*

*Goal:* To develop and implement an approved methodology for PRDE to come into full compliance with all program requirements.

Completion Date: June 30, 2008.

Responsible Offices/Persons: Norma Melendez, Lisandra Fradera, Zoraida Mercado, Rafael Cruz, Angel Canales.

Sub-Task 5.1: Implement actions for schools in corrective action or restructuring at the end of the current school year based on the recommendations of District level staff (on a yearly basis before the beginning of the school year).

Sub-Task 5.2: Develop and train school directors on necessary corrective actions for schools in corrective action or restructuring (on a yearly basis before the beginning of the school year).

*Task 6.0: Public School Choice and Supplemental Educational Services*

*Goal:* To develop and implement procedures that ensure PRDE's adherence to all Federal requirements on Public School Choice.

Completion date: June 30, 2008.

Responsible Offices/Persons: Norma Melendez, Lisandra Fradera, Zoraida Mercado, Rafael Cruz, Angel Canales.

PRDE will develop and implement procedures that ensure adherence to Federal requirements on Public School Choice through the following steps:

- Develop a fully functional Public School Choice Support and Administrative Structure.
- Implement Public School Choice for all schools in school improvement.
- Implement the administrative procedures to implement Public School Choice.
- Train school directors on Public School Choice requirements.

*Task 7.0: Parental Involvement and Notification*

**Goal:** To develop and implement procedures that ensure the proper implementation of parental involvement and notification requirements under Title I.

Completion Date: June 30, 2008.

Responsible Offices/Persons: Norma Melendez, Lisandra Fradera, Rafael Cruz.

PRDE will ensure compliance with requirements on parental involvement and notification, through the following steps:

- Train new school directors on new parental involvement policies.
- Verify that parental involvement meetings are held.
- Monitor PRDE to ensure that programs meet all parental involvement requirements.
- Send all required parental notifications to parents on a timely basis and in a manner consistent with statutory and regulatory requirements.

*Task 8.0: Paraprofessional Qualifications*

**Goal:** To develop and implement procedures that ensure the proper implementation by PRDE of all Federal paraprofessional qualification requirements.

Completion Date: June 30, 2008.

Responsible Offices/Persons: Rafael Sifonte, Myrna Crespo, Norma Melendez.

*Task 9.0: Even Start Family Literacy Program*

**Goal:** To develop and implement procedures that ensure that PRDE carries out required programs and activities under its Even Start Family Literacy Program grants, complies with fiscal requirements at the State and the local subgrant levels, and takes steps to prevent large amounts of Even Start grant funds from remaining unspent.

**Completion Date:** December 31, 2008. (See interim completion dates following each of the steps below).

Responsible Parties: Maria del Carmen Martinez, Myrna Rodriguez.

- PRDE will address the deficiencies in its Even Start program administration through the following steps:
  - PRDE must provide a plan showing that an annual independent evaluation will be conducted of each local Even Start program, and include an analysis of data and recommendations for program improvement. [Interim completion date: June 2008.]
  - PRDE must develop, submit to the Department, and implement a plan for Even Start projects to implement high-

quality, intensive instructional programs, including evidence that it has provided training for Even Start staff to use high-quality instructional literacy materials for children and adults. [Interim completion date: December 2008.]

- PRDE must provide evidence that it has complied with the requirement in section 1233(a) of the ESEA for the 2006–2007 school year, which requires that it has not spent for administration more than 50% of the Even Start funds it has reserved for State level activities. [Interim completion date: March 2008.]

- PRDE must provide evidence that all local Even Start projects are meeting the required matching requirement, and that indirect costs (unallowable) are not included as a matching contribution. [Interim completion date: March 2008.]

- PRDE must provide documentation demonstrating that it has notified local Even Start programs about maintenance of effort requirements in section 9521 of the ESEA, and that it includes Even Start projects in its implementation of the maintenance of effort requirements. [Interim completion date: March 2008.]

- PRDE must provide a plan for how it will spend its Even Start grant funds so that large amounts of past years' funds do not remain unspent. [Interim completion date: March 2008.]

**Titles I & II, ESEA***Task 10.0: Highly Qualified Teachers (HQT)*

**Goal:** To develop and implement an approved plan for highly qualified teachers based on accurate and reliable school level data.

Completion Date (unless otherwise specified below): June 30, 2008.

Responsible Offices/Persons: Romanito Rodríguez, Richard Martinez, Clarimar Cruz.

PRDE agrees to fully comply with all HQT requirements, through the following steps:

- Submit an approvable revised State HQT plan that meets all requirements in the "Reviewing Revised State Plans" rubric, which the Department provided to States to help them develop their plans and which the Department uses to evaluate State plans. The plan will be based on an analysis of complete, accurate classroom-level HQT data.
- Develop and submit procedures by which PRDE will meet the HQT requirements, and the requirements for public reporting, as required by the ESEA (§§ 1111(h)(1)(C)(viii) and (h)(2)(B), and § 1111(h)(6)(B)(ii)) of the ESEA, on all teachers who are not highly qualified and all classes not taught by highly qualified teachers.

- Include in the PRDE monitoring instruments, criteria for determining whether administrative districts and schools meet all of the requirements governing HQT, including paraprofessionals (§ 1119(c)–(g) of the ESEA).

- Gather complete and accurate classroom level preliminary HQT data for the 2007–2008 school year by March 2008.

- By the date the Department establishes in December 2008, submit complete and accurate HQT data for the 2007–2008 year to the Department in Part 1 of PRDE's School Year 2007–2008 Consolidated State Performance Report (CSPR).

- On an annual basis, analyze classroom level HQT data to determine hiring and professional development needs.

- Implement an annual LEA-level needs assessment for professional development and hiring, as required in § 2122(c) of the ESEA. The needs assessment will be completed annually as part of the process of planning the use of Title II, Part A funds, and before any Title II, Part A funds are obligated or expended.

- Develop an annual spending plan for the LEA Title II, Part A funds, to indicate how proposed spending addresses needs identified in the required needs assessment, as well as allowable uses of LEA funds described in § 2123 of the ESEA.

- Develop an annual spending plan for SEA Title II, Part A funds that indicates how the proposed spending will be for allowable uses of SEA funds described in § 2113 of the ESEA.

- As required in § 9501 of the ESEA, consult, on an annual basis, with all eligible private schools that wish to participate in the Title II, Part A program and ensure that equitable services to private school staff are provided with Title II, Part A funds to address their professional development needs as identified by the private schools. Consultation should occur before the start of each school year and must be part of the process of planning the use of Title II, Part A funds, and before any Title II, Part A funds are obligated or expended.

**Title IV, ESEA***Task 11.0: Safe and Drug Free Schools Discretionary and State Grants*

**Goal:** To develop and implement procedures for a Safe and Drug-Free Schools (SDFS) strategy that PRDE will administer effectively and that takes into account need and quality programming supported by

strengthened controls to ensure that Federal funds are spent in a timely manner and in full compliance with all applicable Federal requirements.

Completion Date: June 1, 2008.

Responsible Offices/Persons: Shirley Nunez, Anna Crespo, Regina Cibes.

PRDE will implement the following steps that are designed to improve overall administration of the SDFS programs, including implementation of programs based on scientific research, and appropriate monitoring and internal controls to ensure that funds are used responsibly and in a manner consistent with all applicable statutory requirements and, among other things, ensure that large amounts of SDFS funds do not remain unspent:

- Fully implement the Principles of Effectiveness provided under § 4115(a) of the ESEA.
- Target SDFS resources, based on a needs analysis, to activities specific to funding priorities and grant requirements.
- Develop and implement the Uniform Management Information and Reporting System (UMIRS) consistent with all statutory requirements based on framework developed by PRDE.
- Improve oversight and monitoring strategies for program requirements, as well as financial management and internal controls.

*Task 12.0: Twenty-First Century Schools—After School Learning Centers (21st CCLC)*

*Goal:* To develop plans and procedures for spending, monitoring, and providing technical assistance.

*Completion Date:* August 29, 2008 (unless an interim date is specified below).

Responsible Offices/Persons: PRDE will develop and implement plans, procedures, and processes to ensure adherence to Federal requirements for the 21st CCLC program through the following steps:

- Develop, implement, and submit an annual spending plan that includes procedures on how funds will be drawn down and how State set-aside funds will be used to support the program.
- Interim date:* February 15, 2008.
- Develop, implement, and submit an annual grant competition plan and schedule that outlines the activities that will be accomplished to ensure timely selection of providers.
  - Design and implement a plan that describes the procedures and processes that will be used to evaluate and assess the quality of projects developed by providers.
  - Create and implement a monitoring and technical assistance plan that

includes strategies for improving oversight of, and monitoring for, program requirements, providing technical assistance to providers, and monitoring and administering financial management and internal controls.

#### **Federal Student Assistance**

*Task 13.0: Title IV of the Higher Education Act (HEA)*

*Goal:* To develop and implement procedures to ensure compliance with Federal Student Assistance regulations requiring accounting on an accrual, rather than cash, basis.

Completion Date: March 31, 2009 (unless otherwise specified in the Corrective Action Plan).

Responsible Office/Person: Felipe Rosa.

PRDE will ensure compliance with Department regulations at 34 CFR 668.23(d), implementing Title IV of the HEA, that require all schools receiving funds under the HEA to submit financial statements prepared on an accrual basis, in accordance with U.S. Generally Accepted Accounting Principles (GAAP).

#### **Byrd Scholarship Program**

*Task 14.0: Establish Effective Communication System To Administer Grant Funds*

*Goal:* To develop and implement an effective, ongoing system by which PRDE can communicate with Department staff in a timely manner to facilitate proper administration of Byrd Scholarship funds.

Completion Date: March 31, 2008.

Responsible Offices/Persons: Anna Crespo, Elaine Rosario.

PRDE will address the deficiencies in its administration of Byrd Scholarship Program funds through the following steps:

- Immediately establish an English speaking contact who would have the authority over the program to respond to Department officials directly, and in a timely manner, to discuss the administration of the Byrd Scholarship Program, and to whom Department officials can send information about the program.
- Within thirty days, provide to the Department the Annual Performance Report (APR) on the newly approved form by the Office of Management and Budget, OMB Form #1840-0598, for the reporting period 2006 through 2007.
- Ensure that information about the Byrd Scholarship Program is distributed to eligible recipients in a timely manner by resubmitting the Participation Agreement for review and approval by the Byrd Program manager.

#### **Individuals With Disabilities Education Act (IDEA)**

*Task 15.0: Submit All Required Program Data*

*Goal:* Provide all data required by the Office of Special Education Programs' June 15, 2007 State Performance Plan/Annual Performance Report (SPP/APR) response letter, and that will be required subsequently to be issued in June 2008, June 2009, and June 2010.

Interim Completion Dates: February 1, 2008; February 1, 2009.

Completion Date: February 1, 2010.

Responsible Offices/Persons: Miriam Merced, Ada Hernandez.

PRDE will address the deficiencies in its administration of Parts B and C of the IDEA, and will submit data and otherwise demonstrate its compliance with requirements of the IDEA by demonstrating that:

- PRDE develops individualized education programs (IEPs) for all children transitioning from Part C to Part B of the IDEA, and provides special education and related services by each child's third birthday.
- PRDE completes 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.
- PRDE provides children served under the IDEA with needed assistive technology devices and services in a timely manner, and eliminates the backlog of students needing such devices and services.
- PRDE resolves complaints within the required 60-day timeline (34 CFR 300.152(a)), or within the timeframe of an extension obtained under 34 CFR 152(b).
- PRDE completes all due process hearings, as set forth under 34 CFR 300.515, within the required timelines.
- PRDE resolves financial management issues, including addressing and resolving the use-of-funds requirements related to transportation contracts.
- PRDE submits timely and accurate data required under sections 616 (SPP/APR) and 618 (State-reported data) of the IDEA.
- 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 Agreement.

## Internal Audit

### *Task 16.0: Full Implementation of Internal Audit Office and Audit Committee*

**Goal:** To correct PRDE's current deficiencies in its internal audit practices.

Completion Date: December 31, 2008.

Responsible Offices/Persons: Lourdes Cruz, Myrna Crespo, IAO Director.

Pursuant to discussions between the Department and PRDE, and in order for PRDE to address the Department's areas of concern regarding PRDE's Internal Audit Office (IAO) and the Audit Committee, PRDE will correct the current deficiencies in its internal audit practices through the following steps within one year of the date of this Agreement:

- **Empowerment.** Currently PRDE's IAO and the Audit Committee are not "empowered" to carry out their duties and responsibilities as provided for in their charter and in the PRDE legislation establishing the IAO and the Audit Committee. PRDE and Puerto Rico must take expeditious action to ensure that the Committee is fully empowered to carry out its duties by the full implementation of the charter and the enabling legislation.

- **Organizational Misalignment.** The IAO appears to report directly to the PRDE Secretary of Education rather than to the Audit Committee, based on the organizational chart for the IAO provided to the Department. This organization and reporting structure compromises the independence and objectivity of the IAO, which are key elements of the charter for the IAO. Moreover, the Government Auditing Standards (the so-called "Yellow Book") in section 3.21, state that a government audit organization's ability to perform its work and report the results impartially can be affected by its place within the government. Whether performing work to report externally to third parties or internally to top management, audit organizations must be free from organizational impairments to their independence. Section 3.22 further states that government auditors can be presumed to be free from organizational impairments to independence when reporting externally to third parties.

- **Absence of Sufficient Budgets.** It appears that sufficient funding is not being provided for the IAO and the Audit Committee to function properly and to conduct investigations and studies as provided for in the respective charters and in the enabling legislation. PRDE and Puerto Rico must request and ensure that such necessary funding is

provided so that the IAO and the Audit Committee are able to perform their duties.

- **Autonomy.** As a result of organizational misalignment and as confirmed by Audit Committee members, currently, neither the Audit Committee nor the IAO appears to have the level of autonomy from PRDE that is necessary to effectively carry out their duties and responsibilities, as specified in their charters and in PRDE's enabling legislation. Rather, the PRDE Secretary of Education has previously signed off on their reports, which is in clear violation of proper internal controls and internal audit principles and standards.

- **Staffing.** Neither the IAO nor the Audit Committee is adequately staffed in sufficient numbers, both at the professional and the support staff levels, to permit them to effectively conduct their duties and responsibilities, as specified in their charters and in the enabling legislation, through specific action steps.

Under this Agreement and in accordance with the action steps to be included in the Corrective Action Plans to be incorporated into this Agreement, PRDE will take immediate steps, including the following, to address these concerns:

- Develop a work plan for the IAO that includes, at a minimum, review and assessment of all key items in this Agreement throughout the effective period of the Agreement. This work plan will be provided to the Audit Committee and the Department for review and comment and the approved version will be made available to the public through the IAO Internet site.

- Issue a Memorandum or Directive that states clearly that all PRDE staff must cooperate with the staff of the IAO and the Audit Committee and respond appropriately and expeditiously to any requests submitted to them by the IAO or the Audit Committee.

- Schedule a series of mandatory "All Staff" meetings for all PRDE managers and supervisors to communicate directly about the critical duties and responsibilities of the IAO and Audit Committee and to convey to all PRDE managers and supervisors that they must fully cooperate with the staff of IAO and the Audit Committee.

- Realign the organizational relationships so that the IAO reports directly to the Audit Committee and not to the PRDE Secretary of Education, in order to ensure the IAO has full autonomy and independence to perform its required duties.

- Provide all reports to the Department's local Office of Inspector General staff at the same time as the

reports are provided to the Audit Committee, and, upon request by Department staff or oversight and monitoring staff of the Office of Inspector General, provide translations from Spanish to English of such IAO reports, to which PRDE has attested.

- Make semiannual reports of all IAO activities available to the public through the Internet site.

- Prepare results and status of corrective actions and provide these to the Audit Committee, the Department, and the public, in part so that the Department's Office of Inspector General can provide appropriate feedback and recommendations on submitted reports to assist the IAO and the Audit Committee to come into compliance with all applicable audit requirements and with proper accounting principles.

- Notify the Department in a timely manner of any actions taken or considered that may have the effect of diminishing the effectiveness of PRDE's IAO or Audit Committee, including the ability of the IAO or Audit Committee to carry out duties and responsibilities provided for in their respective charters.

The Department also recommends that PRDE and Puerto Rico consider the following additional steps to help PRDE and Puerto Rico ensure that there is a fully functioning IAO and Audit Committee, although the Department recognizes that these steps may require more time and effort, and may depend in part on the actions of others (such as the Governor, legislature, and Unions) to execute fully:

- Increase the salaries for IAO members in order to be more competitive in recruiting and retaining the best possible candidates for office positions.

- Consider elevating the position of the IAO Director to a position equal to that of other senior PRDE management, both with regard to organizational placement and salary.

- Include in the annual PRDE budget appropriate funding for the projected work plan, materials, and staffing requirements for both the IAO and Audit Committee.

The Parties to this Agreement, the U.S. Department of Education, the Puerto Rico Department of Education, and the Commonwealth of Puerto Rico, agree to faithfully carry out the terms of this Agreement, as set forth above.

Effective Date and Modification of Agreement:

This Compliance Agreement will take effect upon execution by all the Parties and may be modified or amended only

by mutual written agreement of all the Parties hereto.

For the Commonwealth of Puerto Rico: \_\_\_\_\_ /s/ \_\_\_\_\_

Honorable Anibal Acevedo-Vilá,

Governor,

12-17-2007

Date

For the Puerto Rico Department of Education: \_\_\_\_\_ /s/ \_\_\_\_\_

Dr. Rafael Aragunde-Torres, Puerto Rico Secretary of Education.

12-17-2007

Date

For the U.S. Department of Education: \_\_\_\_\_ /s/ \_\_\_\_\_

Raymond Simon, Deputy Secretary of Education.

12-17-2007

Date \_\_\_\_\_ /s/ \_\_\_\_\_

Sara Martinez Tucker, Under Secretary of Education.

12-17-2007

Date

Attachments A and B

**Attachment A—Commonwealth of Puerto Rico Department of Education**

*Puerto Rico Department of Education Action Plan For Title I Assessment Compliance Agreement*

December 2007

*P.O. Box 190759, San Juan, Puerto Rico 00919-0759 • Tel.: (787) 759-2000 ext. 2749, 4749 • Fax: (787) 753-1804.*

The Department of Education does not discriminate in its activities, educational services or employment opportunities on the basis of race, color, sex, age, birth, national origin, social condition, political ideas, religious beliefs or any handicap.

Action steps	Completion date	Documentation	Responsible office	Estimated budget
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**REQUIREMENT 1.0—Content Standards**

Development of rigorous academic content standards in English, Spanish, Mathematics and Science for each of the grades 3-8 and 11.	October 31, 2007	Agendas, attendee's lists, Minutes, Training Power Points, Content Standards.	Office of the Assistant Secretary for Academic Services.	Action steps that require budgeting have been completed.
Involve education stakeholders in the development of the academic content standards.	November 10, 2007.	Panel members, attendee's lists, meeting minutes.		
Approve academic content standards in English, Spanish, Mathematics and Science for each of the grades 3-8 and 11.	November 10, 2007.	Circular Letter.		

**REQUIREMENT 2.0—Academic Achievement Standards**

Develop with the help of external consultant the academic achievement standards for English, Spanish, Mathematics and Science for each of the grades 3-8 and 11.	February 2009 .....	Minutes, Panel members attendee's lists, PLDs for English, Spanish, Mathematics and Science, cut scores.	Office of the Assistant Secretary for Academic Services.	2007-2008 \$10,000.
Develop with the help of external consultant the alternate academic achievement standards for students with the most significant cognitive disabilities for English, Spanish, Mathematics and Science for each of the grades 3-8 and 11.	February 2009 .....	Minutes, Panel members attendee's lists, PLDs for alternate achievement standards for English, Spanish, Mathematics and Science, cut scores.	Office of the Associate Secretary for Special Education.	2008-2009 \$500,000 2009-2010 \$60,000.
Involve education stakeholders in the development of the academic achievement standards and alternate achievement standards.	July 2009 .....	Panel members attendee's lists, meeting minutes.		Contract External Consultants and Vendors.

Action steps	Completion date	Documentation	Responsible office	Estimated budget
Approval of academic achievement standards and alternate academic achievement standards for students with the most significant cognitive disabilities for English, Spanish, Mathematics and Science for each of the grades 3–8 and 11.	July 2009 .....	Memorandum stating the policy that the State's academic achievement standards apply to all students.		
Revisit with the help of external consultants the academic achievement standards and the alternate achievements standards for English, Spanish, Mathematics and Science for each of the grades 3–8 and 11.	July 2010 .....	Minutes, Panel members attendee's lists, and PLDs.		

**REQUIREMENT 4.0—Technical Quality**

Convene a TAC composed of five national experts to advise on the technical quality of the assessments.	January 2008 ..... April 2008 ..... July 2008 .....	List of TAC members, attendee's list, agenda, meeting minutes.	Office of the Undersecretary for Academic Affairs Assessment Division.	2007–2010 \$350,000 per year 2007–2008 \$400,000.
State assessment staff will develop a validity argument stating the purposes of the assessments and delineating the types of uses and decisions most appropriate to each assessment.	January 2008 .....	Meeting minutes, Memorandum of state policy.	Evaluation and Planning Unit	2008–2009 \$600,000 2009–2010 \$600,000.
PRDE will consider contracting to conduct a variety of studies as deemed appropriate and identified by the TAC such as: bias reviews, DIF analysis, confirmatory factor analysis, cognitive labs, Cronbach's alpha, SEM, reliability at cut points, generalizability to evaluate inter-rater agreement for scoring of CR items. Over the course of the year 2008 we will provide more details as to the studies that will be done as advised by the TAC.	July 2008–2010 ....	TAC recommendations and planning schedules.	Contract External Consultants and Vendor.	
Analysis of the efficacy and validity of accommodations for the PPAA including descriptions and guidelines for linguistic accommodations.	April 2008 .....	Review committee's notes, findings and recommendations, Guidance documents, Memorandum, Agenda, training material and attendee's list, documentation of on site visits and follow ups to training.		
Analysis of the efficacy and validity of accommodation use and interpretation of data.	December 2007 ....	Sampling plan and student selection, Final Report and recommendations.		
Develop a technical manual that will document the technical quality of the assessments.	July 2008 .....	Recommendations from TAC on the table of contents required of the 2008 Technical Manual, Technical Manual 2008.		

Action steps	Completion date	Documentation	Responsible office	Estimated budget
<b>REQUIREMENT 5.0—Alignment</b>				
Develop blueprints that reflect the standards in terms of content and DOK.	October 2007 .....	PPAA Blueprints .....	Office of the Undersecretary for Academic Affairs Assessment Division. Evaluation and Planning Unit	2007–2008 \$14.8M (Item development contract—5.5M. (PPEA contract—3M PPAA contract—4.7M).
Collect panelists ratings for items in the item bank on content match and DOK.	July 2008 .....	Minutes of Panelists reviews and ratings.		
Analyze with an external consultant the alignment on a set of scorable items.	July 2009 .....	Study findings .....	Office of the Assistant Secretary for Academic Services.	
Convene a state assessment advisory committee to oversee the new PPAA test development and provide recommendations, decision options, alternative choices, best practices and emerging technical knowledge and outlining appropriate technical documentation required for assessment and accountability practices.	August 10, 2007 ...	Committee member roster ...	Office of the Associate Secretary for Special Education.	2008–2009 \$11.6M (PPEA contract 3M PPAA contract 8M).
Select contractor for the development of test items that will ensure appropriate categorical concurrence, balance of representation, range of representation and depth of knowledge of our revised standards.	September 28, 2007.	Signed contract or other signed procurement document.		2009–2010 \$16.5M (PPEA contract 3M PPAA contract 8M Fall Field Test 5M).
Schedule quarterly state assessment advisory committee meetings to address issues related to overall test development activities and fulfilling compliance agreement requirements.	September 28, 2007. December 17, 2007. March 31, 2008 .... June 20, 2008 .....	Meeting minutes and recommendations.		Contract External Consultants and Vendors.
Convene the state assessment advisory committee composed of the Undersecretary, Auxiliary Secretary for Academic Services, Program Directors and Assessment Staff to provide recommendations to the Secretary for the approval of the standards, grade level expectations and test blueprints.	October 17, 2007	Assessment committee member roster, Meeting minutes and documentation of comments.		
Convene a technical advisory committee (TAC) to provide recommendations in the PPAA and PPEA test development process.	January, 2008 .....	Roster and qualifications of TAC Members, invitational letters.		
Approval of the standards, grade level expectations and test blueprints.	October 31, 2007	Evidence of approval by the Secretary of Education.		
Statewide notification of revised academic content standards and grade level expectations.	November 10, 2007.	Memorandum .....	Office of the Undersecretary for Academic Affairs Assessment Division.	
PRDE staff training on new standards and grade level expectations.	December 19, 2007.	Meeting invitations, Agendas, PPT presentations, training material and attendee’s list.	Evaluation and Planning Unit.	

Action steps	Completion date	Documentation	Responsible office	Estimated budget
Constitute school district training teams composed of school district superintendent, two auxiliary superintendents, one elementary and one secondary level school director, Spanish, Math and English content area supervisors, special education supervisor, Science facilitator and a librarian.	December 19, 2007.	Roster of school district training teams.	Office of the Assistant Secretary for Academic Services.	
Convene an item review committee to review the existing PPAA item bank to consider the recoding of the current items to align with the new standards and GLEs.	January 2008 .....	Meeting minutes, attendee's list and recommendations.		
State assessment advisory committee review of the TAC suggestions to incorporate recommendations to the work plan.	July 2008 .....	TAC recommendations, committee meeting minutes.		
Convene a committee to study the need to revise the standards for the adequate yearly progress measures.	January 2008 .....	Study results and recommendations.		
Occasional Focal Group meetings for ongoing review of alignment issues to ensure content match and appropriate DOK levels and collecting evidence on ongoing review and item development process.	February 2008 ..... June 2008 ..... September 2008 ... December 2008 .... May 2009 ..... October 2009 .....	Meeting minutes, attendee's list and recommendations.		
Conduct PPAA item writing workshops with consultants to develop passages, items and scoring rubrics that will address the changes to the new content standards and grade level expectations.	February–June 2008.	Agenda, PPT presentation, notes on work accomplished, evaluation sheets and attendee's list.		
Teacher and school personnel training on new standards and grade level expectations.	March 31, 2008 ....	Meeting invitations, Agendas, PPT presentations and attendee's list.		
PPEA standard validation process to review cut scores that will adjust to rubric changes in 2008 scoring and reporting based on the progress dimension.	February 2008 ..... April 2008 .....	Agenda, PPT, attendee's list, PLDs and cut scores and standard setting technical report.		
Convene a panel to review and revise the performance level descriptors based on the new standards and GLEs with the help of external consultants.	April 30, 2008— December 2008. February 2009 .....	Panel roster, meeting minutes and recommendations.	Office of the Undersecretary for Academic Affairs Assessment Division.	
Collect and use samples of portfolios for the new PLD creation.				
Complete the PLDs after standard setting.	July 2009 .....	PLDS .....	Office of the Assistant Secretary for Academic Services.	
Revisit PLDs with the help of external consultants.	July 2010 .....	Panels recommendations.		

Action steps	Completion date	Documentation	Responsible office	Estimated budget
Content and Sensitivity meeting with teachers and consultants to revise new passages and items.	June 2008 .....	Agenda, PPT presentation, attendee's list and recommendations.	Office of the Associate Secretary for Special Education.	
Conduct Content Grade Alignment with teachers and external consultants for all subjects and grades to develop grade level instructional and assessment activities for each of the grade level performance standards for students who participate in the PPEA including a resource guide for teachers.	February 2008 .....	Agenda, PPT presentation, attendee's list and recommendations.		
Revise with the help of external consultants the PPEA to align to the new academic content standards.	July 2008 .....	PPEA teacher's guide ..... PPEA Technical Manual.		
Technical assistance form NAAC on the pro's and con's of different PPEA testing strategies to be considered in the 2009 PPEA test design.	June 2008 .....	NAAC TA notes.		
PPEA Stakeholder meetings composed of representatives from special and regular educators, content experts, administrators, university staff and parents to review the PPEA assessment requirements, NAAC recommendations, timelines and test materials development including the content grade alignment recommendations, the grade level performance standards and recommendations for changes and improvements.	July 2008 .....	Stakeholder roster, attendee's list and suggestions.		
Develop with our vendor a new teacher's guide and resource manual for 2009 PPEA administration reflecting the new grade level performance standards and the requirements of the PPEA.	July 2008 .....	Revised Teacher's Guide and Resource Manual.		
Prepare teacher training material for the PPEA 2008–2009 administration.	July 2008 .....	Teacher Training Materials.		
Review and approval of the new item bank.	July 2008 .....	Meeting minutes, attendee's list and recommendations.		
Conduct PPEA teacher trainings that will include an overview of the assessment process, participation guidelines, requirements and new grade level performance standards.	September 2008 ...	Agenda, TT Material, attendee's lists.		
PPEA testing on new standards begins.	October 2008 .....	PPEA testing schedule.		
PPAA Forms are built for the Spring 2009 tests that will address the changes to the content standards and expectations.	August–September 2008.	Writing Test Forms.		

Action steps	Completion date	Documentation	Responsible office	Estimated budget
PPAA Writing forms for Spanish and English test review and approval.	September 2008 ...	Forms approval .....	Office of the Undersecretary for Academic Affairs Assessment Division. Evaluation and Planning Unit.	
PPEA Follow up Teacher Training emphasizing the required new grade level performance standard to be assessed.	October 2008 .....	Agenda, TT Material, attendee's lists.		
Final review and approval of all PPAA forms.	October 2008 .....	Forms approval .....	Office of the Assistant Secretary for Academic Services.	
PPAA Spring 2009 Census Test Production.	December 2008– January 2009.	Census Test.	Office of the Associate Secretary for Special Education.	
Disseminate schedule for the PPAA Spring 2009 test administration.	January 2009 .....	Memorandum, Test Administration Schedule.		
PPAA Pretest Workshop .....	January 2009 .....	Agenda, PPT, training material attendee's list.		
Administer the PPAA Writing Tests.	February 2009 .....	Program for test administration.		
Conduct PPAA Writing Rangefinding.	February 2009 .....	Agenda, PPT presentation, attendee's list and scoring rules.		
Score the PPAA Writing Tests.	March 2009 .....	Scorer information, Scoring results.		
Closing of PPEA administration aligned to new standards and GLEs.	March 2009 .....	Portfolios developed based on new standards.		
PPAA Census Test Administration for all subjects.	March/April 2009 ..	Program for test administration.		
PPAA Rangefinding for all other subjects.	March/April 2009 ..	Agenda, PPT presentation, attendee's list and scoring rules.		
PPEA Rangefinding for all subjects.	March 2009 .....	Agenda, PPT presentation, attendee's list and scoring rule.		Office of the Undersecretary for Academic Affairs Assessment Division.
PPEA scoring on new standards.	April 2009 .....	Scoring results and reports.	Evaluation and Planning Unit.	
PPAA Scoring of all other subjects.				
PPAA Census test item statistics review.	May 2009 .....	Statistical analysis and reports.	Office of the Assistant Secretary for Academic Services.	
PPAA Standard Setting for all grades and subjects.	May 2009 .....	Agenda, PPT, attendee's list, standard setting technical report.	Office of the Associate Secretary for Special Education.	
PPEA Standard Setting .....	May 2009 .....	Agenda, PPT, attendee's list, performance level descriptors and cut scores and standard setting technical report.		
PPEA new score reporting and PPAA Reporting of test results.	June 2009 .....	Reports.		
PPEA Stakeholder meeting to review the assessment activities for the 2008–2009 administration, timelines for the next assessment year, participation guidelines, grade level performance standards requirements and examples and make recommendations for changes and improvements.	July 2009 .....	Stakeholder roster, attendee's list and suggestions.		
PPAA Fall Field Test Production.	June–July 2009 ....	Test Forms.		
Convene a work group to review and approve PPAA fall field test forms.	July 2009 .....	Test form approval.		

Action steps	Completion date	Documentation	Responsible office	Estimated budget
Fall 2009 standalone PPAA Field Test.	September 2009 ...	Field Test Program.		
Scoring of PPAA Fall Field Test.	October 2009 .....	Scoring results and reports.		
PPAA Field test item and statistics review.	October–Nov. 2009.	Statistical analysis and reports.		
2010 PPAA Test Development and PRDE final review and approval.	December 2009 ....	Test review notes and final approval.		
2010 PPAA Test Production	December 2009—January 2010.	2010 Tests Booklets.		
2010 PPAA Pretest Workshop.	February 2010 .....	Agenda, PPT, attendee's list.		
PPAA Rangefinding Meeting	March 2010 .....	Agenda, PPT presentation, attendee's list and scoring rules.	Office of the Undersecretary for Academic Affairs Assessment Division.	
Test data and reporting reviews and data quality controls.	April 2010 .....	Review notes and findings Processing, Scoring and Reporting Quality Control Checklist.		
Reporting of test results .....	June 2010 .....	Agenda, PPT presentation, attendee's list and scoring rules.	Evaluation and Planning Unit.	
Contract experience reviewers to conduct an evaluation of the quality of alignment on the new tests via an external alignment study.	February–June 2010.	Alignment Study .....	Office of the Assistant Secretary for Academic Services.	
Conduct a PLD validity study	June 2010 .....	Study findings .....	Office of the Associate Secretary for Special Education.	

**REQUIREMENT 6.0—Inclusion**

Review assessment data to document participation of all students in the assessments.	July 2008 .....	Reports that specify the participation rates and methods of calculation.	Evaluation and Planning Unit	2007–2008 \$335,000.
Review state guidelines for inclusion of all students.	July 2008 .....	Guidelines and policy documents.	Office of the Assistant Secretary for Academic Services.	
Qualitative review of the existing accommodations by type to address their efficacy and use for LSP students.	December 2007 ....	Review committee's notes, findings and recommendations.	Office of the Associate Secretary for Special Education.	2008–2009 \$150,000.
Incorporate the expert panel and external consultant recommendations in the development of guidance documents and LSP participation plans.	January 2008 .....	Guidance documents .....	Title III Director .....	2009–2010 \$100,000.
Revision of the accommodations manual to include accommodations for LSP students.	January 2008 .....	Revised Accommodations Manual.		
Incorporate the expert panel and external consultant recommendations in the state's review of its policy on the use of accommodations for Limited Spanish Proficient (LSP) students.	February 2008 .....	Memorandum .....	Evaluation and Planning Unit Office of the Assistant Secretary for Academic Services. Office of the Associate Secretary for Special Education. Title III Director.	
Training for educators on accommodations selection and use.	July 2008 .....	Agenda, training material and attendee's list.		

Action steps	Completion date	Documentation	Responsible office	Estimated budget
Evaluation of the effectiveness of training and the provision of technical assistance as needed to support appropriate accommodations selection and use.	April 2008 .....	Documentation of on site visits and follow ups to training.		
Convene a panel of experts to review the linguistic accommodations recommended and best practices and accommodations for LSP students.	September 2007 ...	Roster of panel members, meeting minutes, work plan and recommendations.		
Review the recent July 2007 results to the LAS LINKS Español, Spanish language proficiency test, to gain a better understanding of our LSP student population and identify their linguistic background, their experiences in formal academic settings, and their distribution across grade levels.	September 2007 ...	Profile of LSP students.		
Convene a panel of linguistic experts to select the best accommodations after obtaining a comprehensive knowledge of the LSP student population's needs. Conditions that need to be explored to gain a better understanding of our LSP student population, considering the PRDE context, are the following: <ol style="list-style-type: none"> <li>1. Student's academic Spanish language proficiency,</li> <li>2. First "academic" language development,</li> <li>3. Prior formal schooling, and,</li> <li>4. The length of time the student has resided in Puerto Rico.</li> </ol>	October 2007 .....	Roster of panel members, meeting minutes, work plan and recommendations.		
Develop guidelines with the help of external consultant to identify appropriate accommodations based on the student's performance and linguistic listening, speaking, reading and writing skills.	February 2008 .....	Developed guidelines .....	Evaluation and Planning Unit Office of the Assistant Secretary for Academic Services. Office of the Associate Secretary for Special Education. Title III Director.	
Refine accommodation policy for LSP students to ensure maximum accessibility to the assessment.	February 2008 .....	Policy statements.		
Continue participating in the LEP partnership and follow up on upcoming recommendations and best practices for LSP Students.	Ongoing .....	Literature reviews of best practices.		
Disseminate revised policy and responsibilities regarding the LSP student participation and expanded linguistic accommodations use in large scale and instructional assessments.	March 2008 .....	Memorandum.		

Action steps	Completion date	Documentation	Responsible office	Estimated budget
Training on use of guidelines for the selection of accommodations, procedures for providing testing accommodations and documentation requirements.	March 2008 .....	Agenda, training material and attendee's list.		
Monitor accommodations selection and use in state assessments.	April 2008 .....	Monitoring findings.		
Stakeholder meeting to obtain recommendations for additional accommodations if needed to be used with the 2009 assessments.	June 2008 .....	Meeting minutes, recommendations and attendee's list.		

**REQUIREMENT 7.0—Assessment Reports**

Produce an interpretive guide that facilitates interpretation of assessment data.	Yearly .....	Interpretive Guide .....	Evaluation and Planning Unit	2007–2008 PPAA scoring and reporting \$1.2M PPEA scoring and reporting \$1.4M 2008–2009.
Produce individual student, school, region and island wide reports.	Yearly .....	Reports .....	Office of the Undersecretary for Academic Affairs Assessment Division.	PPAA scoring and reporting \$2.4M PPEA scoring and reporting \$1.4M 2009–2010 PPAA scoring and reporting \$2.4M PPEA scoring and reporting \$1.4M (Costs are included in the test vendor's contracts).
Conduct post-test workshops for training on interpretation and use of assessment results.	Yearly .....	Training materials .....		

**\* Budget Summary**

The Puerto Rico Department of Education will be needing an estimated

budget of approximately \$45.8 M to cover the expenses for the tasks outlined in this three year action plan.

Critical element	2007–2008	2008–2009	2009–2010
2.0 .....	\$10,000.00	\$500,000.00	\$60,000
4.0 .....	400,000.00	600,000.00	600,000.00
5.0 .....	12.2 M	8.0 M	12.9 M
6.0 .....	335,000.00	150,000.00	100,000
7.0 .....	2.6 M	3.6 M	3.6 M
<b>Total .....</b>	<b>15.6 M</b>	<b>12.9 M</b>	<b>17.3 M</b>

The funding sources will be approximately 35% federal dollars and 65% state dollars.

\*Puerto Rico and the U.S. Department of Education reserves the right to review the estimated budget submitted according to the needs that may arise during the plan implementation process.

**Attachment B—Puerto Rico Department of Education Audit Committee Charter**

*Organization*

This charter governs the operations of the Audit Committee (“the Committee”) of the Department of Education of Puerto Rico, (PRDE). The Committee shall review and reassess the charter at least every two years. The Committee shall consist of five members organized

as described in the law. Members of the Committee shall be considered independent as long as they do not accept any consulting, advisory, or other compensatory fee from PRDE and are not affiliated persons of PRDE or its subsidiaries. All Committee members shall be financially literate, and at least one member shall have wide experiences in auditing matters.

*Purpose*

The Audit Committee shall provide assistance to PRDE Management in fulfilling its oversight responsibility to the State and Federal Government and others relating to: the integrity of PRDE statements, the financial reporting process, the systems of internal accounting and financial controls, the performance of the PRDE internal audit function independent auditors, the

independent auditors' qualifications and independence, and PRDE's compliance with ethics policies and regulatory requirements. In so doing, it is the responsibility of the Committee to maintain free and open communication among the Committee, independent auditors, the internal auditors, and Management of the PRDE.

In discharging its oversight role, the Committee is empowered to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of PRDE and the authority to engage independent counsel and other advisers as it determines necessary to carry out its duties.

#### *Meetings*

The Committee will hold at least four meetings annually and will meet in separate executive sessions with PRDE management, independent auditors, and internal audit department representatives to review and resolve matters of concern presented to the Committee. The Committee may meet as many additional times as the Committee deems necessary or appropriate. Reports of all meetings shall be made to the Governor of Puerto Rico and the Secretary of Education.

#### *Duties and Responsibilities*

The primary responsibility of the Audit Committee is to oversee PRDE's financial reporting process and to report the results of its activities to the Governor of Puerto Rico. While the Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Committee to plan or conduct audits or to determine that PRDE operations are accurate and in accordance with Laws and Regulations. Management is responsible for the preparation, presentation and integrity of PRDE financial statements; for the use of appropriate accounting principles and reporting policies by PRDE; and for the application of the Laws and Regulations that govern their operation. The Internal Audit Office as well as the independent auditors are responsible for auditing PRDE operations and reports regarding compliance with applicable laws and regulations.

The Committee, in carrying out its responsibilities, believes its policies and procedures should remain flexible, so that it can better respond to changing conditions and circumstances. The Committee should take appropriate actions to set the overall tone for quality financial reporting, effective risk management practices, and ethical behavior. The following shall be the principal duties and responsibilities of

the Committee. These are set forth as a guide with the understanding that the Committee may supplement them as appropriate.

- The Committee will ratify the appointment, termination and compensation of the Chief Auditing Executive, (CAE). The selection and recommendation of the CAE is the responsibility of PRDE management.
- The Committee will review and discuss with the CAE and appropriate staff members of the internal auditing office:
  - The plans for, and scope of, their ongoing audit activities, and
  - The annual report of the audit activities, examinations and results thereof of the internal auditing department.
- The Committee shall be directly responsible for the appointment and termination (subject, if applicable, to PRDE ratification), compensation, and oversight of the independent auditors, including resolution of disagreements between Management and the auditors regarding the operation reporting. The Committee shall evaluate the independent auditors' qualifications, performance, and independence (including that of the lead audit partner) and shall periodically consider the rotation of the lead audit partner and the independent audit firm. The Committee shall pre-approve all audit and other related services such as agreed-upon procedures used by the independent auditors and shall not engage the independent auditors to perform non-audit services prescribed by law or regulation.
- At least annually, the Committee shall obtain and review a report by the independent auditors describing:
  - The independent auditors' internal quality control procedures;
  - Any material issues raised by the most recent internal quality control review of the independent auditors, or by any inquiry or investigation by governmental or professional authorities within the preceding five years, regarding one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and
  - All relationships between the independent auditor and PRDE (to assess the auditors' independence).
- The Committee shall discuss with the independent auditors the overall scope and plans for their respective audits, including the adequacy of staffing and compensation. Also, the Committee shall discuss with management, the internal auditors and financial controls including PRDE policies and procedures to assess,

monitor and manage risk, and its legal and ethical compliance programs.

- The Committee shall periodically meet separately with Management, the internal auditors, and the independent auditors to discuss issues and concerns warranting the Committee's attention. The Committee shall provide sufficient opportunity for the internal auditors and the independent auditors to meet privately with members of the Committee. The Committee shall review with the independent auditors any audit problems or difficulties and Management's response.
- The Committee shall receive the reports from the independent auditor on the critical policies and practices of PRDE and all alternative treatments of financial information with accounting principles that have been discussed with Management.
- The Committee shall establish procedures for the receipt, retention, and treatment of complaints received by PRDE regarding accounting, internal accounting controls or auditing matters and the confidential anonymous submission by employees of PRDE of concerns regarding questionable accounting or auditing matters.

#### *Internal Control Matters*

- The Committee shall discuss with Management policies with respect to risk assessment and risk management. Although it is Management's duty to assess and manage the PRDE's exposure to risk, the Committee needs to discuss guidelines and policies to govern the process by which risk assessment and management is handled and review the steps Management has taken to monitor and control PRDE risk exposure.
  - The Committee shall establish regular and separate systems of reporting to the Committee by Management and by the independent auditor, regarding any significant judgments made in Management's preparation of the financial statements and the view of each as to the appropriateness of such judgments.
- The Committee shall review with an independent accountant and Management the extent to which changes or improvements in financial or accounting practices have been implemented. This review should be conducted at an appropriate time subsequent to implementation of changes or improvements, as decided by the Committee.
- The Committee shall advise the Governor about PRDE policies and procedures for compliance with applicable laws and regulations and PRDE code(s) of conduct.

• The Committee shall periodically discuss with the Secretary of Education, the Under Secretary of Administration and other Management officials as requested by the Committee (a) significant deficiencies in the design or operation of the internal controls that could adversely affect PRDE's ability to record, process, summarize, and report financial data, and (b) any fraud that involves Management or other employees who have a significant role in PRDE internal controls.

#### *Annual Evaluation Procedures*

The Committee shall annually assess its performance to confirm that it is meeting its responsibilities under this Charter. In the review, the Committee shall consider, among other things, (a) the appropriateness of the scope and content of this Charter, (b) the appropriateness of matters presented for information and approval, (c) the sufficiency of time for consideration of agenda items, (d) frequency and length of meetings and (e) the quality of written materials and presentations. The Committee may recommend to PRDE such changes to this Charter as the Committee deems appropriate. The Committee may also evaluate its objectivity, knowledge of PRDE operations, and judgment, as well as members' attendance, preparation, and participation in meetings.

#### *Investigations and Studies*

The Committee shall have the authority and sufficient funding to retain special legal, accounting or other consultants (without seeking PRDE approval) to advise the Committee. The Committee may conduct or authorize investigations into or studies of matters within the Committee's scope of responsibilities as described herein, and may retain, at the expense of PRDE, independent counsel or other consultants necessary to assist the Committee in any such investigations or studies.

#### *Miscellaneous*

Nothing contained in the Charters is intended to expand applicable standards of liability under statutory or regulatory requirements for PRDE's Secretary or members of the Committee. The purposes and responsibilities outlined in this Charter are meant to serve as guidelines rather than as inflexible rules, and the Committee is encouraged to adopt such additional procedures and standards as it deems necessary from time to time to fulfill its responsibilities. This Charter, and any amendments thereto, shall be displayed on the PRDE web site and a printed

copy of such shall be made available to any person who requests it.

To the extent not prohibited by law, the President of the Committee may represent the entire Committee for purposes of receiving reports, performing reviews, and pre-approving the scope of other audit services to be performed by the independent auditors and the fees relating thereto, provided that a report on all such activities shall be presented to the full Audit Committee at its next meeting.

Approved by:

Nilsa Clas, President, Audit Committee.  
Rafael Aragunde Torres, Secretary,  
Department of Education.

### **Puerto Rico Department of Education Internal Audit Office—Internal Audit Office Charter**

#### *Introduction*

Internal auditing is an independent appraisal activity established within the Department of Education of Puerto Rico (PRDE) to examine and evaluate its activities and operations. The objectives of internal auditing are to assist PRDE management in the effective discharge of their responsibilities by furnishing them with analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed and by promoting effective control at reasonable cost.

#### *Mission Statement*

The mission of the internal audit office is to provide independent, objective assurance and consulting services designed to add value and improve the organization's operations. It helps the organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

#### *Authority and Responsibilities*

Authorization to the Internal Audit Office and its Staff is granted for full and complete access to any of PRDE's records (either manual or electronic), physical properties, and personnel relevant to a review. Documents and information given to internal auditors during a periodic review will be handled in the same prudent manner as by those employees normally accountable for them.

#### *Scope of Audits*

The Internal Auditor shall have the authority to conduct audits in all of PRDE's departments, programs, activities, and areas. The Internal

Auditor's activities shall generally consist of:

A. Reviewing activities and programs to ensure compliance with applicable policies, procedures, laws and regulations;

B. Reviewing activities and programs to ensure that they are being conducted in a manner to efficiently and effectively accomplish the objectives intended by PRDE;

C. Reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information;

D. Verifying that funds are being expended in compliance with applicable laws and in an efficient and effective manner;

E. Verifying that revenues are properly collected, deposited, and accounted for;

F. Verifying that resources, including funds, property, and personnel, are adequately safeguarded, controlled, and used in an effective and efficient manner;

G. Confirming that there are adequate operating and administrative procedures and practices, accounting internal control systems, and that internal management controls have been established by management;

H. Reviewing whether risks are adequately identified and managed;

I. Determining whether programs, plans and objectives have been met.

With the exception of special audits and those audits requiring the element of surprise, auditees will receive advance notice of planned audits, and the Internal Auditor will make an effort to schedule audits at mutually convenient times. Notification of special audits will be given as appropriate.

#### *Standards of Practices and Code of Ethics*

The Internal Audit Office will meet or exceed the Generally Accepted Governmental Auditing Standards, the Standards for the Professional Practice of Internal Auditing and the Code of Ethics of The Institute of Internal Auditors. These documents are included as supplements to this charter.

#### *Organization*

The Internal Audit Office will report administratively to the Secretary of Education and functionally directly to the Audit Committee. The administrative reporting will not, in any manner, impinge on the independence of the audit function as more fully described in the following sections. The Office of the Comptrollers and Ethics Affairs will respond to the Internal

Audit Office and will be in charge of all matters related to prevention and ethics.

#### *Independence*

Internal Audit Office activities must be free from outside influence, including with regard to scope, procedures, frequency, time or the content of the reports, in order to ensure the independence necessary to develop an objective report.

The internal auditor cannot have any direct operational responsibility or authority over any activity that could be subject to audit. Auditors cannot develop or install systems or procedures, prepare registries, or supervise any activity they will audit.

#### *Objectivity*

Objectivity is an independent mental attitude which internal auditors should maintain in performing audits. Internal auditors are not to subordinate their judgment on audit matters to that of others.

Objectivity requires that internal auditors perform audits in such a manner that they have an honest belief in their work product and that no significant quality compromises are made. Internal auditors are not to be placed in situations in which they feel unable to make objective professional judgments.

#### *Audit Annual Work Plan*

Annually, the Chief Auditing Executive will submit to the Audit Committee and the Secretary of Education an itinerary of the Internal Audit Office's scope of work for the next year. This itinerary will be based on the priorities of the audit universe using relevant risk factors. Any deviation to the work plan must be approved by the Audit Committee and communicated to the Secretary of Education. The Committee will be responsible for the approval of the annual audit work plan. The Secretary of Education can recommend the inclusion of additional aspects to be considered in this audit plan. The Committee will review the

recommendation and will make the decision whether or not to include the areas recommended.

#### *Audit Reports*

A written audit report will be prepared and issued by the Chief Auditing Executive following the conclusion of each audit. Once finalized, the report will be distributed as appropriate. The manager of the activity or department receiving the report will respond to any recommendations within thirty days. The response will indicate what actions were taken regarding specific report findings and recommendations. If a response is not received within thirty days, the Chief Internal Auditor will contact the Deputy Secretary of Administration for assistance in resolving the matter.

#### *Audit Reports to the Audit Committee*

A. Each audit will result in a written final report.

B. The Internal Audit Office shall submit copies of each audit report to the Audit Committee and shall retain a copy as a permanent record.

C. The Internal Audit Office shall include in the audit reports, where applicable:

1. A precise statement of scope encompassed by the audit;
2. A statement that the audit was performed in accordance with generally accepted auditing standards;
3. A statement of the time frame covered by the audit;
4. A statement of significant audit findings including a statement of the underlying causes, evaluation criteria used, and the current and prospective significance of the findings;
5. Statements of response submitted by the auditees relevant to the audit findings;
6. Recommendations for additional necessary or desirable action.

#### *Continued Education*

All Auditors shall take 40 credit hours of continued education at least every

two years. Of those 40 hours, at least 24 must be directly related to audit themes. The Internal Audit Office will be responsible for accounting for these hours and coordinating the different courses and workshops to assure compliance.

#### *Confidentiality*

All information related to an audit will be managed with the strictest confidentiality. This information cannot be used for purposes other than to express an opinion over the operation that has been audited. No auditor is authorized to solicit any information that is unrelated to an aspect being evaluated in the normal course of an audit being performed. The disclosure of confidential information constitutes a violation of the Code of Ethics, the Standards for the Audit Profession, and the Internal Rules of the Internal Audit Office.

#### *Due Professional Care*

All work performed by the Internal Audit Office will be performed with due professional care following practice standards.

#### *Effective Date*

This charter will be effective from the date of approval by the Secretary of Education and the Audit Committee. This charter will replace the one approved by the Secretary of Education on July 2, 2001.

Dated: May 18, 2007.

*Presented by:*

**Eda L. Velázquez-Caraballo,**  
*Chief Audit Executive.*

**Nilsa Clas,**  
*President, Audit Committee.*

*Approved By:*

**Rafael Aragunde Torres,**  
*Secretary of Education.*

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