

# Being Accountable

The Challenge to Improve  
Public Schools in Puerto Rico

## Executive Summary



**FLAMBOYANT**  
FOUNDATION

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In Collaboration with  
Friends of Public Education

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**Friends of Public Education** (*Friends*) was created in 2007 when a group of people with an interest in improving public schools in Puerto Rico came together to learn more about education issues. The group met regularly and identified a set of topics that could benefit from further research. In 2007, Friends commissioned two studies with support from Flamboyant Foundation. One study focused on identifying the characteristics of public schools which have demonstrated above average academic results on standardized tests. The other looked at the legal, financial and structural underpinnings of the public education system in Puerto Rico, resulting in the publication of *Being Accountable: The Challenge to Improve Public Schools in Puerto Rico*.

Friends is a voluntary, non-partisan group of concerned citizens that have acted as advisors to Flamboyant Foundation, working closely with the foundation and research teams to oversee the studies. Members of Friends believe that Puerto Rico can greatly benefit from a deeper, fact-based debate focused on the system and its schools. They believe that increased access to reliable information about the state of public education can help improve the quality of education and life in Puerto Rico. They are interested in making clear, objective and analytical information readily available, highlighting the factors that affect students' opportunities to learn and become productive members of society. Friends envision a future where every child in Puerto Rico has the opportunity to receive an outstanding education.

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# BACKGROUND

THE GOAL FOR THIS STUDY was to conduct an assessment of the level of compliance of the Puerto Rico Department of Education (PRDE) and its challenges in the implementation of the *Elementary and Secondary Education Act* (ESEA), reauthorized as the *No Child Left Behind Act of 2001*. Specifically, this report focuses on Title I, Part A Program, the federal financial assistance program that deals directly with improving schools and the quality of teaching and learning. Title I of ESEA amounts to approximately 44% of all federal education funds allocated to the PRDE, and holds the PRDE to high levels of scrutiny and accountability.

When this work began in 2007, *Friends of Public Education* (Friends) was not certain as to where this study would lead. In fact, because of their diverse personal and professional backgrounds, many of the members of Friends were not familiar with the realities and regulations that govern the PRDE. Their interest, however, remained focused on learning more about the topic and gathering data that would allow them to have informed conversations and to advance recommendations. After a comprehensive evaluation of the overwhelming body of evidence compiled by Torres Llompart, Sánchez Ruiz, LLP, it became evident that Puerto Rico has been in material noncompliance with multiple federal requirements.

The gathering of information for this report began in 2007 and ended in September 2009. This report does not consider information or actions taken beyond that point in time. During the summer of 2010 Flamboyant Foundation and the authors met with top-level government officials to discuss the report. It was brought to our attention that the government has made significant progress since they took over the administration of the PRDE in January 2009 and, indeed, some changes have been implemented, particularly regarding the payments to suppliers, the disclosure of information, and the production of reports required by law.<sup>1</sup>

However, the political turmoil and the instability surrounding the resignation of the two previous Secretaries

<sup>1</sup> For further details and current information see <http://www.de.gobierno.pr/> and [http://www.presupuesto.gobierno.pr/Tomo\\_II/educacion.htm](http://www.presupuesto.gobierno.pr/Tomo_II/educacion.htm).

of Education and the appointment of a third within a two-year period highlights that a great deal of the key findings herein discussed are still relevant. Therefore, it is more than appropriate to start a serious and profound conversation about the implications of not being accountable, particularly to our students' academic success.

The ultimate objectives of this publication are to generate the discussions and strategic decisions that need to take place regarding PRDE's use of federal funds and to spawn efforts that seek to improve the quality of the public education system for future generations of Puerto Ricans. Everyone needs to assume greater responsibility for the problem and solutions. We all need to act responsibly, not because legal provisions or administrative regulations mandate it, but because social stability and economic prosperity are intricately connected to the quality of Puerto Rico's public education system.

## Legal Framework

To understand the challenges surrounding the implementation of a successful educational policy in Puerto Rico, first one must understand the legal framework shaping this process. Such framework can be unfolded into two levels: federal and state. At the federal level, Congress legislates to provide funds for states to adopt academic standards that prepare students to succeed in college and the workplace, and to create accountability systems that measure student growth toward meeting the goal that all children graduate from high school and succeed in college. The responsibility of translating policies into actions and actions into measurable results ultimately lies on the state's educational agency.

The Elementary and Secondary Education Act (ESEA), a U.S. federal statute enacted on April 11, 1965, sought to improve educational opportunities for low income children—using statistics compiled by the U.S. Census—by providing financial assistance to local educational agencies serving areas with concentrations of educationally disadvantaged children from low income families. Although the Act was originally authorized through 1970, the U.S. Congress has reauthorized it several times and the current reauthorization is the No Child Left Behind Act of 2001 (NCLB), which applies to all 50 states and all territories, including Puerto Rico.

ESEA mandates that all children have a fair, equal and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments. This Act consists of ten titles, and its intent is summarized in these four pillars: (1) Accountability—to increase accountability of States, school districts and schools to ensure academic proficiency of those students who are disadvantaged; (2) More Choices—to increase the choices available to parents and students, particularly those attending low-performing schools; (3) Greater Flexibility—to allow more flexibility for state and local education agencies in the use of federal education funds to improve student achievement; and (4) Research-based Education—to implement data-driven educational programs and practices proven effective through scientific research.

ESEA acts as a national policy on primary and secondary education; however, its implementation is delegated to the states. In turn, duties and responsibilities are commonly divided between a State Education Agency (SEA), typically the State Department of Education, and one or more Local Education Agencies (LEAs) within each particular state. While there are 49 states comprised of an SEA and LEAs, Puerto Rico and Hawaii are the only unitary systems, meaning they function as both an SEA and an LEA. In the case of Puerto Rico, the PRDE acts as an SEA and an LEA, and its internal organization, duties and responsibilities are defined by Puerto Rico Law No. 149 of July 15, 1999, also known as the Organic Act of the Puerto Rico Department of Education.

Law No. 149 was enacted in 1999 to: establish a new organic act for the Puerto Rico Department of Education; establish Puerto Rico's public policy on education; establish the rights and obligations of students, teachers and administrators; define the tasks of the Secretary of Education, school directors and other administrators; and to authorize the Secretary of Education to adopt and execute regulations for the governance of the education system, among other matters.

Since its enactment, Law No. 149 has been amended 30 times, 22 of which were presented, considered and approved after the reauthorization of the ESEA in

2001. However, none of these amendments expressly sought to harmonize the state law with the federal law. Moreover, most of these amendments deal with the handling of very specific issues that do not directly address the four pillars set forth by the ESEA.

## Circular Letters

Since Law No. 149 as well as previous organic laws have not been specific enough to address the needs of educating the population, Secretaries of Education have adopted the common practice of issuing circular letters to fill in the gaps. These circular letters attempt to address many of the vacuums within organic laws, including Law No. 149. The abundance and extension of these circular letters exacerbates the problem of hierarchical structures and lack of governability, leading to high volatility and instability within the academic and administrative structures of PRDE. Three specific challenges arise in this regard.

First, Law 149, as amended, leaves too many unresolved issues to the discretion of the Secretary. Second, that same broad delegation of powers to the figure of the Secretary allows secretaries to “administratively legislate” and establish whatever public policy they deem necessary. Since the Governor appoints the PRDE’s Secretary, the position is inextricably tied to each new administration and to the Governor’s Office. Each new Secretary can make significant changes to public policy by issuing new circular letters or derogating existing ones without the need to amend Law 149. Third, little or no research is done to make sure that circular letters are aligned with each other or with existing legislation. As a consequence, they sometimes contradict one another or federal and state laws.

## The Agreements

PRDE’s process to attain full compliance with federal requirements of NCLB began in 2003 with the Cooperative Audit and Resolution and Oversight Committee (CAROI) initiative. In 2004 the PRDE entered into a compliance agreement with the United States Department of Education (USDE) because PRDE “was failing to comply substantially with numerous federal requirements” of NCLB. The Agreement addressed findings dating back to 1994 that were identified through numerous PRDE audits and that addressed systemic problems with the PRDE’s program administration and management of federal

education funds, such as grants management, payroll, financial management, property management and procurement.

On December 17, 2007, PRDE signed a second Compliance Agreement and a Memorandum of Agreement with the USDE. As stated by the federal government, the purpose of the 2007 Compliance Agreement was “to improve education for the students of Puerto Rico by bringing the Commonwealth of Puerto Rico and the PRDE into full compliance with program requirements of the USDE.” The 2007 Compliance Agreement provided for a period of three years to correct the identified programmatic deficiencies.

If during the period covered by this agreement Puerto Rico fails to demonstrate that it is making reasonable progress toward meeting the terms of the agreement, or fails to demonstrate an active, good faith commitment to meeting the terms of the agreement, the USDE may exercise its authority to do one or more of the following: (1) designate Puerto Rico as a “high risk” grantee; (2) place Puerto Rico on a cost reimbursement method of payment; (3) require the PRDE to contract third-party fiduciary services to oversee PRDE’s education program administration; (4) require the PRDE to operate one or more programs under the terms of a cooperative agreement with the USDE; (5) withholding, terminating, or suspension of grant funds; (6) recovery of funds; (7) judicial enforcement; and (8) referral to the U.S. Department of Justice for enforcement.

## Collective Bargaining

In February 2008, after more than two years of negotiations with the government, the Puerto Rican Teacher’s Federation (Federación de Maestros de Puerto Rico in Spanish, hereinafter “the Federation”) went on strike to demand better pay, better work conditions and the end of what they perceived as an attempt to privatize Puerto Rico’s public education system. At the time, the Federation was the exclusive representative of over 40,000 teachers when negotiating labor conditions with the government. The strike lasted less than two weeks and demands were not met by the government. However, as a result of Puerto Rico’s labor legislation, specifically Law No. 45 of 1998 which prohibits public sector workers from striking,

the government decertified the union on January 8th, 2008. This decision was later ratified by the Puerto Rico Court of Appeals on February 29th, 2008. The unionized teachers were left with no legally recognized representative to negotiate work conditions with the government.

Later that same year, Law No. 109 was enacted to grant an increase of \$150 to the monthly payment of all PRDE's full-time teachers and to set the minimum starting monthly salary awarded to teachers at \$1,750. Both adjustments were effective on July 1st, 2008. These were two of the key issues that had led to the declaration of a strike earlier that year.

As of the date of completion of this report, the Federation remains decertified and there is no collective bargaining agreement in effect. This lack of representation generates labor frictions that deeply affect what is already a critical state of instability within the public education system. Moreover, the lack of a collective agreement leaves the day-to-day issues that affect teachers and their teaching in limbo, with no clear ground rules of effective engagement between the teachers and the PRDE administration, two key players in the execution of public education policy in Puerto Rico.

## Funding Structure

The Constitution of the Commonwealth of Puerto Rico grants the right to an education to every person. Specifically, Article II, Section 5 states:

“Every person has the right to an education which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. There shall be a system of free and wholly non-sectarian public education. Instruction in the elementary and secondary schools shall be free and shall be compulsory in the elementary schools to the extent permitted by the facilities of the state. No public property or public funds shall be used for the support of schools or educational institutions other than those of the state. Nothing contained in this provision shall prevent the state from furnishing to any child non-educational services established by law for the protection or welfare of children.”

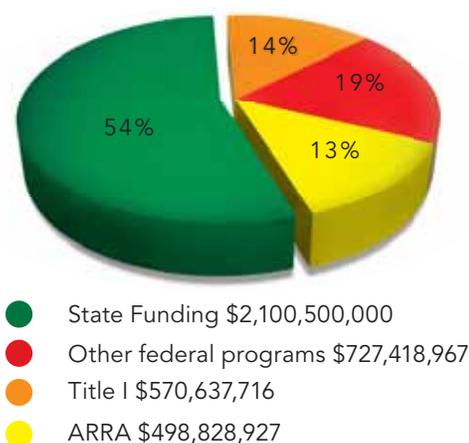
Therefore, the public school system is mainly funded by the state. In the case of Puerto Rico, as in every other jurisdiction of the United States, state funding is supplemented by federal funding.

In fiscal year 2009, ESEA programs across the United States and its territories were funded at just under \$25 billion. Over \$14 billion was allocated for Title I Grants to LEAs. In Puerto Rico, the Title I Program follows the same national proportion, and in fiscal year 2010, funds from Title I will represent approximately 44% of all federal monies allocated to Puerto Rico for public education, excluding non-recurring allocations from the American Reinvestment and Recovery Act of 2009 (ARRA).

Based on information gathered from the USDE website and the Office of Management and Budget of Puerto Rico (OGP, by its Spanish acronym), for school year 2009–10, PRDE will receive a total of \$1,796,885,610 in federal funds. This includes \$570,637,716 for the Title I Program; \$727,418,967 for all other federal education programs combined; and \$498,828,927 of ARRA funds, of which \$386,407,681 are ESEA Title I Grants to Local Education Agencies (LEAs) and \$112,421,246 are School Improvement Grants.

State funding for FY 09–10 amounts to \$2,100,500,000, which translates to 54% of PRDE's 2009–10 total budget, while federal funds allocated to PRDE under the aforementioned programs amounts to 46% of all funds. Refer to Figure 1.

FIGURE 1. Total Funds allocated to Puerto Rico for FY 2009–2010<sup>2</sup>



<sup>2</sup> This distribution does not consider the State Fiscal Stabilization Fund, from which the PRDE received \$359 millions, as sub-grantee of the Office of the Governor.

Puerto Rico is a unitary system that makes no distinction between SEA and LEA, therefore the PRDE acts as both entities and receives 100% of the funds allocated to Puerto Rico. Operating as both an SEA and an LEA, the PRDE faces bureaucratic hurdles that often result in ineffective administration and monitoring of procedures related to the distribution of federal funds to schools.

According to the National Center for Education Statistics, as of March 2006, Puerto Rico was spending a total of \$5,799 of its funds per pupil, being ranked third to last — 54 out of 56 — among all U.S. jurisdictions that receive ESEA Title I funds, as shown in Figure 2. Only American Samoa and the Northern Marianas Islands have a lower ratio. While some may argue that this low ratio may be due to the nonexistence of LEA subdivisions in Puerto Rico, that argument needs closer analysis since Hawaii is also a unitary system and is ranked among the top 50% of all U.S. jurisdictions in terms of per pupil expenditure.

Several internal audits have reflected excessive cash balances of unused federal funds available for certain school programs. Since funds have not been disbursed within the period of availability, PRDE has had to return them to the USDE. Funds have been lost due to several factors, including a lack of trained personnel that could comply more successfully with specialized funding requests, the complexity of internal bureaucratic procedures and the lack of a sound

system for more effective control and supervision of subcontracted services.

Further adding to the financial problems, in recent years, Puerto Rico’s capacity to generate additional revenues has been hampered by a dramatic slowdown in the local economic activity. This has, at times, resulted in the Puerto Rico Department of the Treasury (PRDT) executing an unwritten policy of withholding payments to suppliers, including those of the PRDE. Moreover, since the PRDT is the fiscal agent for the PRDE and the receipt of major federal programs funds is subject to a Cash Management Improvement Act Agreement, the cash management method used is actual clearance. This means that each single disbursement has to go through the internal administrative process of the PRDE for its authorization and then it is up to the PRDT to issue and deliver the actual payment. Figure 3 illustrates this process.

This structure may have caused operational constraints at the PRDE and eroded the relationship with service and products suppliers who have been adversely affected. Higher prices, delivery delays and a shortfall of suppliers of services and goods are just some of the direct consequences that affect not only the PRDE, but also the ability of school directors, teachers and other school and district personnel to carry out their work and provide services to students.

Figure 2. Per Pupil Expenditure in 2006

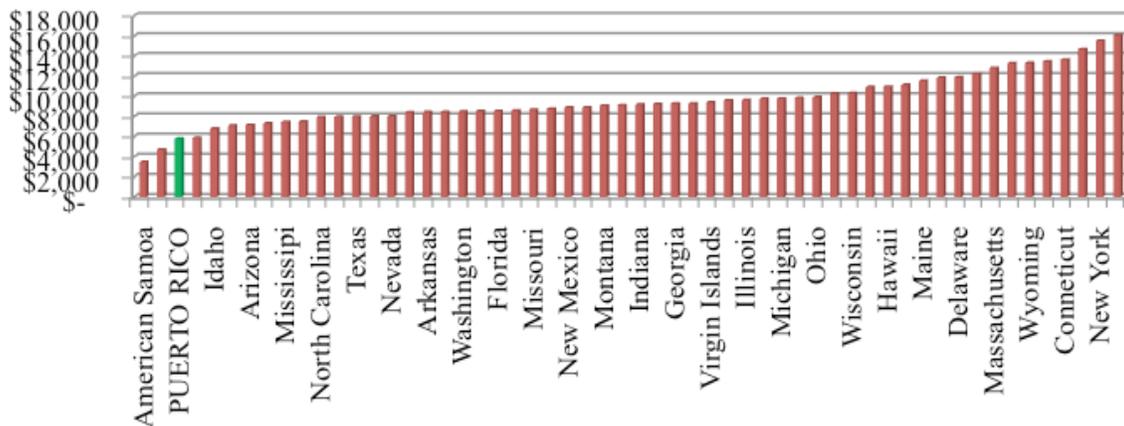
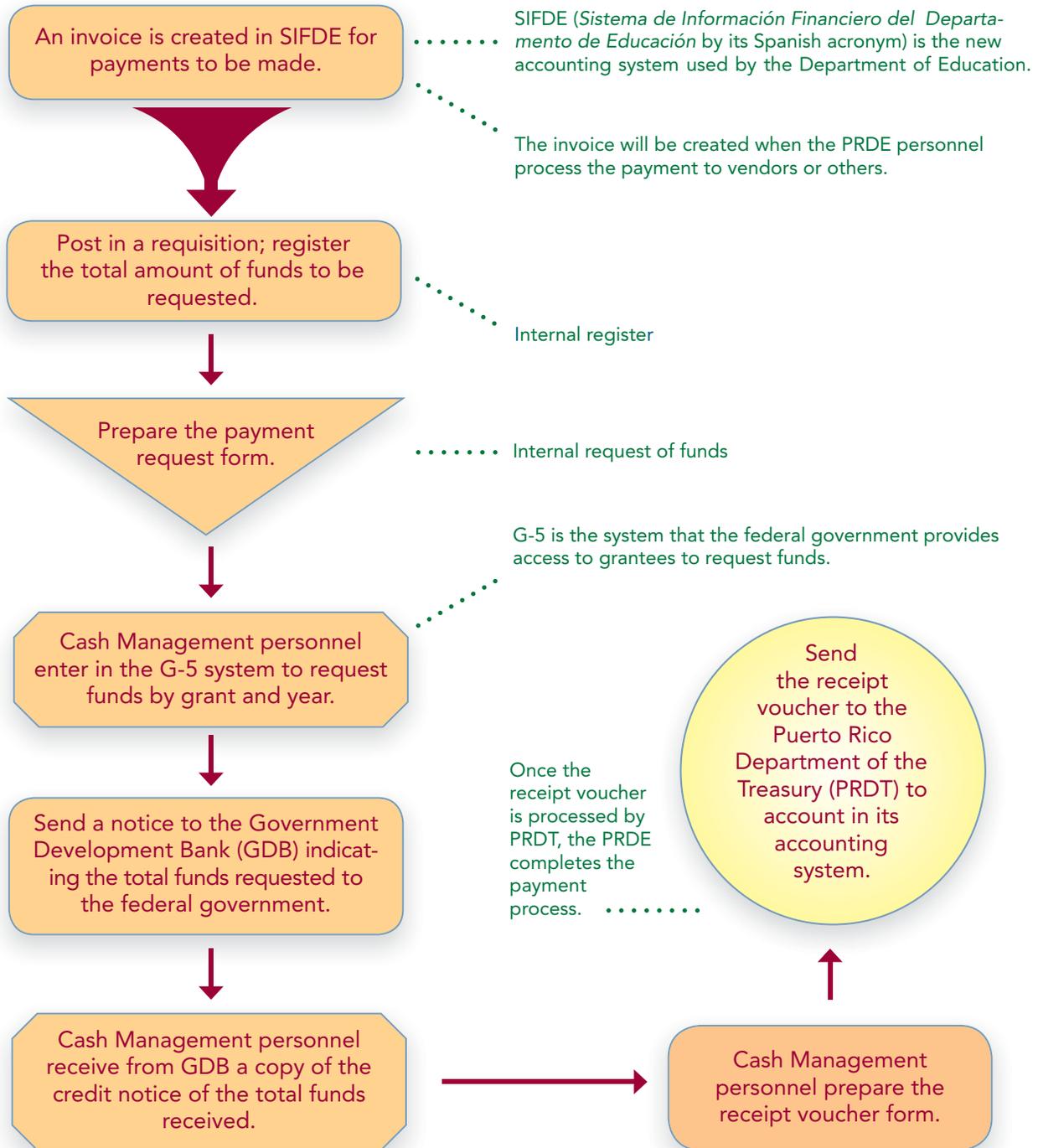


FIGURE 3. REQUEST OF FUNDS FOR PROGRAMS NOT COVERED BY THE TREASURY STATE AGREEMENT



# FINDINGS

## WHERE DOES PUERTO RICO STAND TODAY?

AS WE DISCUSSED EARLIER, the Compliance Agreement and a Memorandum of Agreement executed by the USDE and the PRDE on December 17, 2007 were intended “to improve education for the students of Puerto Rico by bringing the Commonwealth of Puerto Rico and the PRDE into full compliance with program requirements of the USDE.” This Agreement is divided into tasks and each task has a specific completion date that range from 2008 through 2010, providing for a three year period to correct the identified programmatic deficiencies. By the term of the Agreement PRDE must have shown reasonable progress towards full compliance with all applicable program requirements to continue to receive federal education funds under these programs in the same terms and conditions as it has so far.

Unfortunately, PRDE has not shown “reasonable progress towards full compliance.” In a letter dated August 21, 2009, the USDE warned the PRDE of the consequences of failing to comply with the soon-to-expire

2007 Agreement and gave an ultimatum to the Commonwealth of Puerto Rico. Specifically, the USDE stated that “Puerto Rico and the PRDE have approximately 16 months to be in full compliance with all applicable program requirements in order to continue to receive federal education funds under the covered federal programs. At the current rate of progress, especially given the probable disruption in federal program implementation that is likely to result from the significant staffing changes discussed above, the [U.S.] Department [of Education] is very concerned that Puerto Rico may not meet the requirements of the 2007 Agreement.”

As a result, the USDE could, at any time, enforce the actions outlined in both the August 21st 2009 letter and the 2007 Compliance Agreement, including, but not limited to, the reinstatement of Puerto Rico as a high-risk status jurisdiction. Below are some of the most important findings regarding the obligations related to the provisions of the ESEA, Title I, Part A.

## ASSESSMENT AND ACCOUNTABILITY

In the area of assessment and accountability, as of the date of this report, Puerto Rico:

1. Does not have an approved system of academic content standards, academic achievement standards and assessments (including alternate assessments) for all subjects and grades, as required by the ESEA.
2. Has not reviewed or revised its accountability workbook as required by ESEA.
3. Has not published, as required by the ESEA, annual report cards.
4. Has not reported complete and reliable Adequate Yearly Progress (AYP) of its students and schools in a timely manner.

**“ By the term of the Agreement PRDE must have shown reasonable progress towards full compliance with all applicable program requirements to continue to receive federal education funds under these programs in the same terms and conditions as it has so far. ”**

## PROGRAM IMPROVEMENT, PARENTAL INVOLVEMENT AND PARENTAL OPTIONS

In the area of program improvement, parental involvement and parental options, as of the date of this report, Puerto Rico:

1. Has not consistently ensured that school-wide plans get implemented and managed accordingly.
2. Has delayed the implementation of Supplemental Education Services (SES) and the Request for Proposals (RFP) for new SES providers for the 2009–2010 school year. In addition, recertification of providers and evaluations of provider effectiveness have not been completed.
3. Has not identified low-performing schools in a timely manner. The USDE is greatly concerned about the accuracy and completeness of the data contained in PRDE's Student Information System (SIS).
4. Has not met public school choice requirements (providing parents of eligible students with notice of their public school choice options at least 14 days before the start of the school year).
5. Does not hold most schools accountable for school-level parental involvement as required by the ESEA, nor do they conduct an annual Title I meeting for parents. Hence, schools are failing to fully involve parents in decisions regarding the utilization of funds.
6. Lacks proper information to determine whether PRDE's federally funded programs are being properly implemented and whether federal funds are being properly expended according to all federal requirements.
7. Has not developed procedures to ensure the hiring and retention of highly qualified teachers.
8. Has not ensured that all paraprofessionals meet qualification requirements, nor defined how it ensures that any paraprofessionals who do not meet the qualification requirements will not be working in a program supported with Title I funds.

## MONITORING AND FIDUCIARY RESPONSIBILITIES

In the area of monitoring and fiduciary responsibilities, as of the date of this report:

1. Although the Federal Government has expressed that Puerto Rico complies with the procedures for reserving funds for school improvement, the reallocation and carryover provisions of the ESEA, and the maintenance of effort (MOE) provisions of Title I, the USDE has expressed concerns over the draft of four waivers that would allow greater flexibility in PRDE's use of Title I, Part A and the 2009 ARRA funds. The PRDE has had significant turnover in Title I personnel and has failed to meet the performance requirements set forth in the Progress Tracking Tool, thus generating concern over the expenditure of Title I, Part A funds.
2. The USDE has warned the PRDE about the importance of keeping adequate internal audit structures and procedures. The PRDE has decided to outsource their internal audit process to ensure that the 2009–2010 portion of the four-year audit plan is carried out in a timely manner. It is important to point out that pursuant to Puerto Rico Law No. 194 of 2004, the Governor should appoint five members to an Independent Audit Committee. Some of the key functions of this Committee include assessment of the fiscal and administrative operation of the PRDE, evaluation of its internal control system, monitoring its internal audit procedures, and ultimately ensuring that the PRDE complies with all the applicable state and federal laws.

## WHY SHOULD PUERTO RICO ADHERE TO THE ESEA LEGAL FRAMEWORK?

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**THE ESEA REQUIRES THAT THE PRDE** develop a state-wide accountability system that applies to all public schools. At a minimum, the law requires the PRDE to: 1) develop or select annual reading/language arts, mathematics and eventually, science assessments that are aligned with state content and performance standards; 2) assure that assessments are administered to students in all public schools; and 3) use measures of achievement, reported in terms of proficiency levels on these assessments, as the primary measure of school accountability, also known as Adequate Yearly Progress.

**In recent years, as evidenced in the findings previously highlighted, PRDE has demonstrated a very limited capacity to develop standards and establish levels of performance on each statewide assessment. Since standards and assessments lie at the heart of compliance and accountability, this means that the PRDE continues to be at serious risk of losing a billion dollars in federal funds.**

This is a domino effect scenario since, as explained in the latest communication from the USDE, a high-risk status places ARRA funds at risk. This high-risk status may also limit Puerto Rico's ability or eligibility to apply for competitive funds like Race to the Top or Innovation Fund, which consequently limits Puerto Rico's capacity to be innovative. It could also jeopardize other funds destined to support other government agencies.

There are specific ways schools are to measure whether or not they are making Adequate Yearly Progress (AYP). First is standardized testing in reading and math, second is attendance rates, and third is graduation rates at the secondary level. Puerto Rico's education system faces challenges in meeting all three of these indicators. Further exacerbating the problem is that by federal law this information is to be made public; however, PRDE has not been in full compliance with this requirement.

Even though PRDE has been able to gather results on schools' performance in relation to targets for AYP for most of its subgroups, a review of Puerto Rico's test results reveals that a majority of schools are failing the standardized test (Pruebas Puertorriqueñas de Aprovechamiento Académico) that measures their aca-

ademic progress. (See Appendix 2.) Furthermore, the tests do not measure what is being taught in schools and what is being taught is not guided by a curriculum and a clearly delineated set of standards. If the curriculum, the standards and the assessments are not aligned, then testing is largely irrelevant and cannot adequately measure student progress or be used to improve academic programs.

In addition to the challenges outlined regarding the annual assessments, the PRDE has failed to accurately track graduation rates, a key AYP indicator for secondary schools. PRDE does not have an adequate system to determine whether a child has moved, dropped out, skipped a grade, failed a grade, or not graduated on time. The current method for determining graduation rates is to take the number of children entering kindergarten in a given year and subtracting the number of children graduating twelve years later. For obvious reasons this is an inaccurate way of determining a school's or the island's graduation rates. It is important to note that the PRDE has requested a waiver for the graduation rate indicator for 2009–10.

However, even if that data is unusable and the graduation rate is factious, PRDE is required to publish and share the information on a school-by-school basis. Specifically, PRDE must inform parents and publish an accurate annual State Report Card that summarizes assessment results for all students in all schools, disaggregated by student subgroup which takes into account race, ethnicity, and socio-economic status.

Interestingly enough, the USDE has imposed no sanctions on the PRDE for repeatedly failing to meet assessment and accountability expectations under ESEA. Similarly, PRDE has not implemented any sanctions and has no strategy to intervene in schools with multiple years of not making AYP.

There are at least four strong reasons why Puerto Rico must seriously adapt its legal framework to adhere to ESEA's accountability requirements and work to implement them as fully and rigorously as possible. They are:

- 1. Because It Is Good for Students** — Accountability means developing, implementing, and adhering to

good and sound professional policies that result in better educational outcomes for the children. The point is not to be accountable to USDE, although financially it makes sense. Rather, PRDE should be accountable to students for their academic achievement. Creating a student focused system that drives results is obviously good for kids, and therefore a very strong reason to move Puerto Rico to the accountability track.

- 2. To Maintain Eligibility for Federal Grant Funds**—If Puerto Rico cannot establish and maintain a reliable accountability system to deal with federal funds received to support its educational system, it could lose its eligibility to receive further funds, which currently represent 46% of total funding. Further, if the success of programs like Race to the Top and Investing in Innovation (i3) are any indication of what is to come with the reauthorization of ESEA, PRDE will not be poised to compete. The requirements for eligibility to win these pots

of gold are the basic levels of accountability which are not in place in PRDE.

- 3. To Guide Future Reforms**—The need for an effective accountability system is not limited to just those programs supported under the ESEA. The PRDE needs an accountability system that can measure and report performance for all students enrolled in Puerto Rico's public education system and all programs across all schools in the system. This accountability system should provide information needed to guide current and future reform efforts and decision-making, and to support and sustain program improvements system-wide.
- 4. To Restore Public Confidence**—As public education in Puerto Rico makes progress towards standards-based reform, where standards, curriculum, and assessments are aligned and where performance targets are established and met, a sound assessment and accountability system could become the cornerstone of a strategy for restoring public trust.

## MOVING BEYOND COMPLIANCE

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**THE CONCEPT OF ACCOUNTABILITY** encompasses being responsible for something to someone. It also implies that such responsibility has to do with account-giving, somehow related to the proper management of resources. Hence, when it comes to public education, accountability refers to the responsibility that each and every stakeholder of a society has for the public money invested in a public education system. That is, taxpayers and tax spenders are at some degree responsible for the public investment in public education and what the return on that investment is.

Therefore, accountability systems should not be designed, implemented and enforced exclusively to reach compliance levels but to support efforts to guarantee that public money, regardless of its sources or amount, is efficiently spent. In terms of public education it means that stakeholders should make sure that public funding is directed

to ensure that every child has access to an excellent education.

**Compliance is a limited concept, one that is too timid to use when exploring decisive ways to improve educational programs and outcomes for all students in Puerto Rico.** Compliance does not ensure quality as compliance levels, by definition, are minimum levels, and the terms that define compliance are often reached through negotiation and compromise. The bottom line is that a minimum compliance benchmark is not a high expectation from which to generate an effective accountability system to measure and improve student performance, and consequently, the entire public education system. The children of Puerto Rico cannot wait while the adults sort out our public values and build trust with one another. They are counting on us to create and deliver a system of education that prepares them for the competitive economy they will face upon graduation.

# RECOMMENDATIONS

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**T**he challenge is to restore trust in the ability to deliver quality education, and to restore this trust it is necessary to restore credibility in our government institutions. Poor party politics have diminished Puerto Rico's citizens' trust in government and reprehensible acts of corruption in public service have stigmatized all government officials alike. This is unfair to the great majority of honest and dedicated people who represent society's bulwarks for forging ahead and creating a more prosperous country for all.

Even if Puerto Rico did not depend on federal funding, it would still need to work towards accountability for the sake of our children and the island's future economic and social stability. It is not up to the government; it is up to all the stakeholders to take responsibility and hold each other accountable. It is every stakeholder's responsibility to become interested in and connected with the challenges and efforts of its public education system. All sectors need to understand their rights and obligations and join efforts to acknowledge that everyone is part of the problem and part of the solution. Following are a set of specific issues that need to be addressed:

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1. **PRDE's Organic Law (currently Law 149) must be revised.** The new law must define a clear vision for a high quality education system. Further, it must strengthen assessment and accountability practices in public education. Finally, it must take into consideration the federal requirements of ESEA and maximize our access to federal funds.
2. **PRDE's Circular Letters should not be used to establish public policy.** They should be used as a mechanism for addressing administrative and operational issues.
3. **PRDE must align standards, curriculum and assessments.** Further, teachers and school directors must be trained in these areas and be provided with ongoing professional development.
4. **PRDE needs an effective and updated student information system.** It should track student achievement and identify the value added of an individual teacher on students' achievement. This information needs to be public and available for all parents to access.
5. **PRDE must operate with a culture of transparency.** Students, parents, teachers, administrators and citizens at large must have full access to information regarding the administrative and programmatic actions PRDE is taking to comply with ESEA so they can play an active role in achieving a better education system.
6. **Puerto Rico must maximize the use of its Title I funds.** We must have a clear understanding of the amount that goes toward per-pupil expenditure versus administrative and other costs.
7. **The problem of lapsed and returned federal funds should be addressed as a top priority.** PRDE must make sure that allocated and competitive funding is not lost and that once received it is used correctly. An effective audit process must be in place and its findings transparent and public.
8. **PRDE must decide if it remains both an SEA and an LEA.** If PRDE stays as a unitary system greater internal controls over finances, human resources, academic programs and administration must be established. If it splits into an SEA with multiple LEAs this will require a clear management and accountability plan.
9. **PRDE must negotiate a progressive collective bargaining agreement with the unions.** A revised contract should tie benefits and incentives to performance and results. Labor unions are a key player in system reform and while their priority is their members, all parties must put students' needs first.
10. **Puerto Rico must consider an alternative nomination, confirmation and evaluation process for the Secretary of Education.**

Ultimately, it is absolutely necessary to have a broad conversation about these recommendations and the expectations of every stakeholder.<sup>3</sup> As a country, Puerto Rico needs to analyze, reach consensus and determine whether this is a historic moment where the incentives

are strong enough and the stakes high enough to work collaboratively to redesign a quality public education system that can transcend compliance and set every single stakeholder on the path to being accountable for our children's academic success.

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<sup>3</sup> For more specific and detailed recommendations in the areas of student achievement, legal and financial matters, see Appendix II.

## APPENDIX I

The following tables are taken from recent publication by Sapiientis titled “El estado actual de las escuelas públicas en Plan de Mejoramiento en Puerto Rico (Año Escolar 2009–2010).”

### Number of Schools in School Improvement Plan (SIP)

Total number of public schools in Puerto Rico	1,518
Total number of public schools in SIP	950

### Breakdown of Schools in SIP by number of years in SIP

Years in SIP	Number of Schools
1 to 2	291
3 to 4	225
5	152
6 or more	282

### Breakdown of Schools in SIP by school level and senatorial district

	Elementary (K–6)	Middle School (Grades 7–9)	High School (Grades 10–12)	Second Unit (Grades K–9)	All School Levels	Secondary	*PS—Institutes or Others
Satisfactory Schools	463	20	20	40	7	10	*
Schools in SIP	440	198	149	136	5	22	*
Total number of schools	903	218	169	176	12	32	8

\*Post-secondary (PS) schools or institutes that are part of the PRDE but do not administer the standardized test (*Pruebas Puertorriqueñas de Aprovechamiento Académico*).

	San Juan District I	Bayamón District II	Arecibo District III	Mayagüez District IV	Ponce District V	Guayama District VI	Humacao District VII	Carolina District VIII
<b>Total number of schools by senatorial district</b>	148	123	191	209	229	258	206	154
<b>Satisfactory Schools</b>	36	22	88	95	101	101	89	36
<b>Schools in SIP by senatorial district</b>	112	101	103	114	128	157	117	118
<b>Total number of students in schools in SIP</b>	38,155	40,292	47,047	42,802	48,285	60,345	44,723	45,275

## APPENDIX II

Future considerations of the financial, legal and academic dimensions to improve the accountability of PRDE should embody the following principles. These are based on a document titled Statement of Principles Elementary & Secondary Education Act (ESEA) Reauthorization 2010, an Open Letter to President Obama, Secretary Duncan, and members of the U.S. Senate and House of Representatives published on March 3, 2010.

### STUDENT ACHIEVEMENT

1. **Student Achievement Data**—The PRDE must build a student information system that will disaggregate, measure, analyze and make public student achievement data by economic levels, school, district, region, etc.
2. **Academic Performance**—The PRDE must set annual, measurable and ambitious goals for the academic performance of all students and for closing achievement gaps as compared to other more successful jurisdictions.
3. **Graduation Gaps**—The PRDE must set goals to narrow, and ultimately close and overcome, high school graduation gaps.
4. **Teacher Hiring and Evaluation**—The PRDE must eliminate forced placement of teachers and give principals participation in the process of hiring of new teachers. Decisions pertaining to teacher placement, advancement, pay, and tenure should be based on teacher quality and effectiveness in improving student achievement. Ultimately, the PRDE must adopt a comprehensive set of research-based input metrics for teacher hiring and evaluation, at least until primarily outcome-driven teacher effectiveness evaluation systems, including those that evaluate the performance of teacher training programs and their graduates, are better developed and fully implemented.
5. **Teacher Effectiveness**—Future revisions to the State law must consider allowing for the development of valid measures of teacher effectiveness that make meaningful differentiations between effective and ineffective teachers and that use multiple measures that include student achievement data as a significant factor in determining teacher effectiveness, along with other measures such as observations of teacher practice by objective raters.
6. **Accountability Systems**—The PRDE must pay special attention to schools that are “stuck” —both low-performing and low-improving — which should be targeted for the most intensive interventions. Schools that do well on both should be recognized for their success.
7. **Variables**—The PRDE must build an accountability system based only on outcome variables (e.g., high school graduation rates and state or national test scores). Mixing outcome data with input variables (e.g., “school climate” or “parent involvement”) will confound accountability systems and mask student performance and achievement gaps.
8. **Student Progress**—The PRDE should work on a “growth-to-standard” model that evaluates student progress and relative gains over multiple years towards an ultimate common goal.

9. **Student Achievement Reporting** — A uniform, one or two page reporting form on student achievement and teacher quality data for each school must be made accessible on each school and on the PRDE website. These forms should present material in an easy-to-understand format so that they are accessible to the widest possible audience.

10. **School Transformation Interventions** — There are school transformation interventions — short of restructuring — such as those that involve focused and sustained high-quality professional development targeted to improve student achievement, and/or those that expand high-quality learning time for students via extended day, week-end, and summer programs, which have shown the potential to transform some low performing schools. The PRDE must monitor the progress of interventions and instituting stronger reporting requirements for more intensive monitoring of persistently failing schools. Also, it is important that the PRDE compel increasingly intensive interventions in low-performing schools. Persistently low-performing schools necessitate fundamental changes in staffing and leadership.

## FINANCIAL

1. **Budget Allocations** — Allocations of Title I funds should add value to the educational programs of each school rather than fill in budget gaps created by inequities in the distribution of human capital and other educational resources. The PRDE should target these funds to the neediest children living in the neediest neighborhoods and attending the neediest schools. Close attention should be paid to the percentage of Title I funds that goes to payroll instead of going to students, facilities or materials.

2. **Professional Development** — The PRDE should set aside a significant portion of federal professional development funds to implement and/or expand proven and effective practices in the preparation and professional development of teachers and future school leaders. It should ensure that all professional development dollars are used to encourage the equitable distribution of teachers and increase the effectiveness of teachers in the lowest performing schools.

3. **Supplemental Services** — Federal funds for reform-oriented instructional approaches such as supplemental tutoring, expanded learning time —including after-school, extended day and school year — and teacher training, should, to the greatest extent possible, be awarded by the PRDE via competitive grants or sub-grants to public, non-profit and other non-governmental entities with a proven record of quality and success.

4. **Disclosure** — PRDE must make public the distribution of state and federal funds in every individual school. Per-pupil expenditures should be reported annually on a school-by-school basis.

## LEGAL

1. **Data Accessibility**—The only factor that should limit the PRDE’s disclosure of data is the privacy of individual students. Data should be made available to be accessed by the public, even if it is managed by a private company.
2. **Transparency** — Parents have a right to know their children’s current and expected level of achievement. Parents and the public have a right to information about the performance of every school as compared to other schools within the jurisdiction and in the rest of the United States and about the qualifications and performance of school personnel.
3. **Accountability Systems**—The PRDE must develop, by a specified date, accountability systems based on both achievement and improvement. PRDE’s accountability systems must hold all students to the same high standards and use the same assessments for all students as part of those accountability systems.
4. **“High Quality Teacher”**—This designation should be clearly defined by the PRDE using high standards thus disallowing poorly qualified and ineffective teachers to remain in the classroom.

