

**Congress of the United States**  
**Washington, D.C. 20515**

July 15, 2020

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary DeVos:

We write regarding the U.S. Department of Education's (Department) delayed distribution of emergency grant aid to Puerto Rico. On March 27, 2020, Congress passed the bipartisan Coronavirus, Aid, Relief, and Economic Security Act (CARES Act) in order to provide rapid federal financial relief to states, territories, and outlying areas.<sup>1</sup> The CARES Act appropriated approximately \$400 million in emergency aid for elementary and secondary education in Puerto Rico.<sup>2</sup> On June 16, 2020, 82 days after Congress passed this emergency response bill, the Department released approximately \$7 million of the \$400 million, indicating that it would withhold the remaining 98.4% while Puerto Rico obtained a third-party fiduciary to manage the funds.<sup>3</sup> The Department's stated reasons for this requirement were "the longstanding challenges that have been associated with Puerto Rico and [Puerto Rico Department of Education's (PRDE)] fiscal management of Federal funds and the impact this has on effective Federal education program implementation."<sup>4</sup>

Puerto Rico has experienced program implementation challenges in the past. In 1998, Puerto Rico's Single Audit Act audit had more than 140 findings.<sup>5</sup> However, Puerto Rico has consistently worked to address those issues and its most recent audit only contained 24 findings, most of which did not relate to elementary and secondary education.<sup>6</sup> Despite these improvements, the Department has erected bureaucratic hurdles for the release of this emergency grant aid.

Congress designated the Education Stabilization Fund within the CARES Act to expediently provide resources to states and local educational agencies. Congress intended to empower them

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<sup>1</sup> Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020).

<sup>2</sup> Letter from Assistant Secretary Frank Brogan to Governor Wanda Vázquez Garced and Secretary Eligio Hernández Pérez (June 16, 2020).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Governor Wanda Vázquez Garced and Secretary Eligio Hernández Pérez to Assistant Secretary Frank Brogan, Attachment 7 (May 30, 2020).

<sup>6</sup> Kevane Grant Thornton, *Puerto Rico Department of Education Single Audit Package, Fiscal Year 2018* (June 30, 2018)

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to respond to immediate operational challenges and plan for the upcoming school year, which will pose substantially different challenges from school years past.<sup>7</sup> While ensuring recipients have sufficient internal controls to prevent waste, fraud, and abuse is paramount to the successful implementation of any program, delayed funding distribution has undermined the core purpose of this program. To address these competing ends the Department should work collaboratively with all recipients to ensure rapid disbursement. In this case, the Department's prior dealings with Puerto Rico provided a clear roadmap of how to proceed.

In 2017, Hurricane Irma and Maria caused nearly \$100 billion in damage and devastated core parts of Puerto Rico's education infrastructure.<sup>8</sup> As a result, Congress recognized Puerto Rico's need and appropriated \$589 million for K-12 school recovery under the Immediate Aid to Restart School Operations (RESTART) program.<sup>9</sup> Due to the above-mentioned management challenges, the Department required Puerto Rico to provide internal controls and monitoring plans governing the distribution of these funds. The Department approved those plans and Puerto Rico has since successfully implemented them.<sup>10</sup> In fact, the Department recently asked Puerto Rico "if they could share [PRDE's] manuals with other States as an example."<sup>11</sup>

The Department could have initially requested that PRDE abide by the same internal controls articulated in the RESTART program when expending CARES Act funding, a concession that PRDE made within days of the Department's eventual request.<sup>12</sup> Instead, the Department engaged in nearly three months of negotiations only to finally disburse a mere 1.5% of Puerto Rico's emergency grant funds while withholding the remaining funds for two additional months.<sup>13</sup> According to the Department's proposed timeline, it will not transmit these funds to Puerto Rico until August 15, 2020, shortly after its first day of school.

The Department's delays raise serious questions. Without further information we cannot adequately reflect on the propriety of the Department's decision to demand such stringent specific conditions for the distribution of emergency aid. Accordingly, we request the Department respond to the following questions no later than July 29, 2020.

- 1) Provide all documents detailing the criteria the Department uses when requiring a state or territory to abide by "specific conditions" to participate in all or some federal programs and grants.
- 2) Provide all documents detailing the criteria the Department uses when requiring a state or territory to obtain a third-party fiduciary to participate in all or some federal programs and grants.

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<sup>7</sup> Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 18002(c), 18003(d) (2020).

<sup>8</sup> Center for Disaster Philanthropy, *Hurricanes Irma and Maria: State of Recovery* (Sept. 20, 2018).

<sup>9</sup> Consolidated Appropriations Act, 2018, Pub. L. No. 115-141 (2018).

<sup>10</sup> Letter from Governor Wanda Vázquez Garced and Secretary Eligio Hernández Pérez to Assistant Secretary Frank Brogan, Attachment 7 (May 30, 2020).

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.*

<sup>13</sup> Letter from Assistant Secretary Frank Brogan to Governor Wanda Vázquez Garced and Secretary Eligio Hernández Pérez (June 16, 2020).

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- 3) Provide all documents detailing any instance in which the Department has required a state or territory to obtain a third-party fiduciary or abide by other “specific conditions” as a condition of continued participation in Department-administered programs.
- 4) Provide any reports created in the last three years by the Department’s Risk Management Service regarding Puerto Rico.
- 5) Provide all communications between the Department and the Government of Puerto Rico regarding Puerto Rico’s procurement of a third-party fiduciary.

Please send all official correspondence and information relating to this request to the Committee on Education and Labor’s Chief Clerk at [Tylease.Fitzgerald@mail.house.gov](mailto:Tylease.Fitzgerald@mail.house.gov).

Sincerely,



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**ROBERT C. “BOBBY” SCOTT**  
Chairman  
U.S. House of Representatives  
Committee on Education and Labor



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**RAÚL M. GRIJALVA**  
Chairman  
U.S. House of Representatives  
Committee on Natural Resources

Cc: The Honorable Virginia Foxx, Ranking Member  
The Honorable Rob Bishop, Ranking Member