August \_\_, 2020

Frank Brogan

Assistant Secretary for Elementary and Secondary Education

U.S. Department of Education

400 Maryland Avenue, S.W.

Washington, D.C. 20202

Dear Assistant Secretary Brogan,

On behalf of the Puerto Rico Department of Education (PRDE), I would like to thank you and your staff one more time for the assistance you have already provided Puerto Rico and your willingness to continue working with PRDE in strengthening internal controls and other efforts to ensure compliance with federal programs, and for the technical assistance provided by your staff as part of PRDE’s implementation of the Title IV-A Program. At this time, PRDE would like to formally request additional fiscal flexibility for Fiscal Year (FY) 2017 under the Title IV, Part A of Elementary and Secondary Education Act (ESEA), as amended by Every Student Succeeds Act (ESSA) of 2015.

In accordance with Section 8401 of ESSA, the PRDE is requesting an additional one-year waiver of section 421(b) of the General Education Provisions Act (GEPA) for the period of availability for the FY 2017 Title IV-A funds. The FY 2017 funds became available on July 1, 2017 and were available to obligate through September 30, 2019. However, on September 30, 2019 the PRDE requested a one-year waiver of section 421(b) of the GEPA to extend the period of availability of these funds until September 30, 2020. This waiver was approved on December 19, 2019 and allowed the PRDE to continue serving the eligible student population in private schools and continue implementing section 4108 “Activities to Support Safe and Healthy Students”.

Under this additional waiver, the period of availability for the funds in question will be extended an additional year, until September 30, 2021. The PRDE is requesting this additional waiver in order to complete the implementation of the program’s activities addressed to serve the eligible student population in private schools. As such, if the period of availability for the FY 2017 grant is not extended, about **.71%** of the FY 2017 award will lapse on September 30, 2020.

PRDE is requesting this waiver because it is not possible to obligate funds on a timely basis as originally planned due to extensive school closures across the island. These closures are in response to extraordinary circumstances for which a national emergency has been duly declared by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency

Assistance Act and will protect the health and safety of students, staff, and our communities.

In seeking these waivers, PRDE assure that:

* PRDE will use funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers.
* PRDE will work to mitigate any negative effects, if any, that may occur as a result of the requested waivers.
* PRDE will provide the public with notice of, and the opportunity to comment on, this request by posting information regarding the waiver request and the process for commenting on the State website.

As stated in the previous waiver request, PRDE has made efforts to obligate these funds during the corresponding period, however, there have been some factors that have caused delays in this process, specifically in the implementation of the non-public schools’ activities. In addition, the PRDE has been carrying a delay in implementing its activities and work plans after the impact of Hurricanes Maria and Irma. Other factors include a 6.4 magnitude earthquake that hit Puerto Rico on January 7, 2020. Following the initial devastation of the January 7 earthquake, the island experienced significant aftershocks for several weeks, keeping most public and private buildings, including non-public schools, closed until such time as certified inspectors could examine and confirm that buildings were safe. This process was prolonged by the continued aftershocks. In just the last week of February, the island experienced 43 aftershocks classified as “significant.” While only five of those subsequent earthquakes registered above 3.5 in magnitude, the continued tremors still keep many buildings closed until inspectors are able to determine them safe to reopen.

However, any relief felt by the slowing down of the aftershocks disappeared on March 15, 2020, when the Governor placed a curfew and lockdown restrictions on Puerto Rico residents due to the COVID-19 pandemic. As of this date, even though the island has slowly reopened starting in July, many non-public schools are still closed. Also, many vendors haven’t reopened or resumed operations. Therefore, non-public schools’ activities have to be re-programed and modified in order to reach the population that it intends to impact due to the COVID-19 safety measures that need to be taken. The pandemic has caused a considerable delay in obligations and expenditures of these funds, on top of the delays caused by the earthquakes at the beginning of the year. As such, PRDE needs additional time to obligate existing Title IV, Part A FY 2017 funds and carry out the ongoing processes and activities for participant non-public schools.

During this additional year of availability for FY2017 Title IV-A funds, the PRDE will provide a continued and sustainable service where the non-public schools students may improve and develop their academic and civics skills needed to succeed in life. This will help the students in the decision making processes. Although the PRDE cannot impose academic standards on non-public schools, most of these schools have adopted the same standards and goals developed by the State. Therefore, this waiver will aid in maintaining a safe environment in non-public schools, improving the use of technology and continue providing these students with the tools and skills needed as part of a differentiated/well-rounded education. Also, these activities will help in improving the non-public students’ academic achievement, the non-public school graduation rate and in preparing these students for entering in an effective way into the society and the labor environment. The non-public schools will provide assistance to the same population previously identified in the work plans submitted by these schools.

Lapsing such funds after September 30, 2020 would significantly limit PRDE’s ability to continue implementing the Title IV, Part A non-public schools’ activities. Please find attached the implementation plan prepared for the additional year period.

In accordance with federal regulations, the PRDE has provided the public with notice and a reasonable opportunity to comment and provide input on this request.

The PRDE will appreciate your consideration on this request. My office would be happy to further discuss this request, should you have any questions or concerns, please contact me directly at 919-889-9426 or by email [martinezof@de.pr.gov](mailto:martinezof@de.pr.gov). My staff and I will be available to discuss this request and next steps with you at your earliest convenience.

Thank you.

Sincerely,

Francisco J. Martínez Oronoz, Ph.D., MPA

Auxiliary Secretary of Federal Affairs

Cc: [Ivonne.jaime@ed.gov](mailto:Ivonne.jaime@ed.gov)

**ESTIMATED IMPLEMENTATION PLAN**

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| --- | --- | --- | --- |
| **Activity** | **Description** | **Estimated Completion Date** | **Responsible** |
| • Purchase of materials, equipment and services needed for implementing non-public schools' activities | The PRDE is in charge of the procurement process for the funds assigned to non-public schools of the different federal programs, including the Title IV, Part A program. | August to October 2020 | PRDE |
| • Implementation of the program activities, as approved in the non-public schools' work plans | Once the procurement process is completed, the non-public schools may begin implementing the program activities. | November 2020 to May 2021 | Non-public schools |
| • Submission of Achievement Reports | After completing the school year, the non-public schools are required to submit an Achievement Report to the PRDE describing how the goals of the work plans were achieved and the results were measured. | June 2021 | Non-public schools |
| • Evaluation of Achievement Reports | The PRDE will evaluate the achievement reports to determine compliance with the approved work plans and with the Program requirements. | July 2021 | PRDE |
| • Dissemination of results and use of funds | The PRDE will publish the results of the non-public schools' activities and their use of the Program funds. | August 2021 | PRDE |