

**Improving Teaching and Learning for  
Students with Disabilities  
and other  
Diverse Learners  
including Decentralization Implications  
for the Puerto Rico Department of Education  
by the Council of the Great City Schools**



**Summer 2024**

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First, we thank Puerto Rico Secretary of Education Yanira Raíces Vega for the department's active cooperation and welcoming embrace of our review. It is not easy to bring together a group external experts and stakeholders to review current practices to support opportunities for improvement. It takes courage and openness and demonstrates a real desire for change and improvement. We also thank Iota Impact staff members who supported this review. We hope this report meets your collective expectations and will help to advance the teaching and learning of SwDs.

Second, we thank the many PRDE staff members and IOTA Impact team members who contributed to this effort. In particular we thank Francisco Martínez Oronoz and Camila Tobar who organized/facilitated the interviews and provided the detailed data/documents the Council team requested. The time and effort required to organize a review such as this are extraordinary, and their work is much appreciated.

Third, the Council thanks the many individuals who met with us, including central office and regional administrators, principals, general and special educators, assistants, related services personnel, and other stakeholders. All work passionately to support SwDs and strive to provide them with the instruction and services they need to learn. Staff members with whom we met reflected dedication to their students and expressed a strong desire to improve their achievement and social/emotional well-being.

Finally, I thank Alka Pateriya, CGCS's strategy and partnerships director, who facilitated the team's work prior to and during the team's two onsite visits. Also, thanks to team members Tamara Alsace who summarized PRDE curricular materials, and Mary Lawson who assessed DOJ and PRDE legal personnel roles. And I thank Sue Gamm, a nationally recognized special education expert and a long-time Council consultant who worked diligently to prepare the final report. As always, their work was outstanding and critical to the success of this effort. Thank you.

Dr. Ray Hart  
Executive Director  
Council of the Great City Schools



## PURPOSE AND ORIGIN OF THE PROJECT

The Puerto Rico Department of Education (PRDE), through IOTA Impact, accepted the Council of the Great City Schools' (CGCS) proposal to assess the Department's administration, operation, and provision of special education instruction/related services, as well as foundational practices designed to improve the achievement of all students. Through this lens the CGCS proposed to view decentralization actions taken and planned and provide recommendations for future actions for consideration by the Secretary of Education and IOTA Impact.

CGCS is the nation's primary coalition of large urban public-school systems and has conducted some 350 organizational, instructional, student services focusing on special education, English learner instruction, management, and operational reviews for more than 60 big city school systems over the last 25 years. For special education alone, CGCS has conducted 27 reviews. The reports generated by these reviews identify best practices as well as opportunities for improvement associated with substantive recommendations.

Our reviews are informed by team members' lessons learned over many years about why and how major urban school systems improve, and others do not. and other organizations' research on elements of school improvement and how they differ in places showing little academic gain over the years. The team's analysis of PRDE data is used to help understand the relationship between district practices and results that have or have not been achieved. Finally, our interviews of relevant central office, regional, and school-based personnel, and other stakeholders allow us to gather first-hand feedback on practices.

The CGCS technical assistance approach to urban school districts that relies on current/former senior managers from other urban school systems is unique to the Council and its members. The organization finds it to be an effective approach for several reasons.

First, it allows the superintendent and staff members to work with a diverse set of talented, successful practitioners from around the country. The teams provide a pool of expertise that superintendents and staff can call on for advice as they implement the recommendations, face new challenges, and develop alternative solutions.

Second, the recommendations from urban school peers have power because the individuals who develop them have faced many of the same challenges encountered by those requesting the review. No one can say that these individuals do not know what working in an urban school system is like or that their proposals have not been tested under the most rigorous conditions.

Third, using senior urban school managers from other urban school communities is less expensive than retaining large management consulting firms that may have little to no programmatic

experience. The learning curve is rapid, and it would be difficult for any school system to buy on the open market the level of expertise offered by the Council’s teams.

Members of the Strategic Support Team for this project are named below.

<b>Raymond C. Hart, Ph.D.</b> Executive Director, Council of the Great City Schools	<b>Tamara Alsace, Ph.D.</b> Former Director of Multilingual Education, Buffalo Public Schools
<b>Sue Gamm, JD.</b> Former Chief Specialized Services Officer, Chicago Public Schools; CGCS consultant	<b>Christina Kishimoto, Ph.D.</b> Former State Superintendent, Hawaii Department of Education; Hartford, CT and Gilbert (AZ) district superintendents; and member of Grupo 21 Advisory Board
<b>Mary Lawson, Esq.</b> General Counsel, CGCS	<b>Nicole Mancini, Ed.D.</b> Chief of Academics, CGCS
<b>Miguel Pabon</b> Assistant Superintendent of Pupil Services Capitol Region Education Council’s (CREC) Magnet Schools	<b>Alka Pateriya</b> Director of Strategy and Partnerships, CGCS
<b>Valeria Silva</b> Former Superintendent, St. Paul Public Schools, Superintendent-in-Residence, New York Leadership Academy	

The SST conducted onsite interviews over eight days during two visits to Puerto Rico (February 26 – March 1, 2024, and March 26 – 28, 2024.) The team visited with personnel at the PRDE central office, at regional offices (Ponce and Mayagüez), special education centers (San Juan, Ponce, and Mayagüez), and schools (in Ponce, Añasco, and Mayagüez). During this time, the SST interviewed 65+ individuals representing PRDE’s central, regional, and special education offices, school staff, parents, university professors, and special education advocates.

In addition to this information, the SST reviewed federal and state requirements, district guidance/documents, and Rosa Lydia Vélez documents. No individual is personally referred to or cited in the report, although some school district position titles are referenced when necessary for contextual reasons.

It is important for readers of this report to understand that the Council SST’s gathering of qualitative/quantitative information does not meet state/federal compliance monitoring standards with which several members have extensive expertise. Interviewees’ anecdotal information was gathered and shared to give a sense of practices that extend understanding of written descriptions. This enables team members to use their collective knowledge and experience to share recommended suggestions for consideration.

The following section contains an executive summary that highlights important themes from the report. The main portion of the report contains a discussion and specific recommendations, which are organized by the following six broad sections. Embedded in these areas are decentralization considerations.

- I. MTSS Framework for Accelerating Student Achievement and Wellbeing
- II. Disability Demographics and Eligibility
- III. Data Associated with SwD Achievement and Wellbeing
- IV. Support for Accelerating SwD Achievement and Wellbeing
- V. Administrative/Operational Support for SwD Teaching and Learning
- VI. Special Education Accountability Measures
- VII. Decentralization Implications for Special Education

Appendices contain the following –

Appendix A lists Incidence Rates and Staffing Survey Results

Appendix B lists Rosa Lydia Vélez Stipulations

Appendix C lists the Council SSTs agendas with individuals and groups the team interviewed

Appendix D lists data, documents, and other information requested and reviewed.

Appendix E presents brief biographical sketches of team members.

Appendix F describes the Council and includes a list of SST reviews conducted since 1998.

## CONTEXTUAL BACKGROUND

The Puerto Rico Department of Education (PRDE)'s data submission to the Council SST reported a student enrollment of 242,624, only smaller than public school student populations educated by large public school districts in New York City, Los Angeles, Chicago, Miami-Dade County, Clark County (Las Vegas), and Broward County (Ft. Lauderdale). PRDE schools are divided into eight regions, each having from 4 (San Juan) to 16 (Humacao) municipalities. With its 858 public schools, PRDE is third in number of schools behind New York and Los Angeles school districts.

To begin, we recognize that compared to mainland school districts PRDE has unique challenges associated with its fiscal status, natural disasters, migration, poverty, human capital, and governance. All of these factors have influenced the department's administration and operation of special education, which has a basis in federal law that does not recognize external circumstances interfering with procedural requirements and provision of special education/related services identified in individual education plans (IEPs).

### Fiscal Considerations

The article, "Educational Challenges in Puerto Rico," outlined various fiscal considerations unique to Puerto Rico.<sup>1</sup> To spur industrialization of the island, for over 80 years the federal government granted various tax incentives to U.S. corporate subsidiaries that operated in Puerto Rico. As recently as 1976, the tax code's section 936 enabled these entities to avoid federal and Puerto Rico taxes when incomes were distributed as dividends. These tax incentives enabled Puerto Rico to develop a strong though relatively poor manufacturing sector compared to the US mainland. This artificial investment attraction, however, left the island vulnerable to a crash if section 936 was repealed. Through the early 1990s, dissatisfaction grew with large corporations avoiding tax obligations and action was taken in 1996 to phase the law out over 10 years (2006). As a result, foreign investment began to flee, and the economy with tax revenues began to shrink without a strong domestic corporate presence. These fiscal circumstances came to a head when in June 2015 the Puerto Rico governor announced that the island's approximately \$70 billion debt, including the \$1.92 billion debt service due imminently, could not be met. The following June 2017, Congress passed the Puerto Rico Oversight Management and Economic Stability Act (PROMESA), which created a structure to oversee the island's fiscal affairs. Education

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<sup>1</sup> "Educational Challenges in Puerto Rico." *Broken Chalk*, 12 June 2023, <https://brokenchalk.org/educational-challenges-in-puerto-rico/>. Accessed 17 July 2024.

consequences converged and as of 2018-19 PRDE closed 673 public schools since 2007. In one school year alone (2017-18 to 2018-19) 283 schools were closed.<sup>2</sup>

### Medicaid and Other Grants

In addition to the repercussions flowing from the repeal of section 936, Puerto Rico's unique Medicaid block grant status also contributed to the island's debt crisis. With variable annual caps based on Congressional appropriations funds, the program prescribed monetary figure is allocated compared to the more customary federal Medicaid process that matches state eligible expenditures. The federal share of Puerto Rico's Medicaid funding is capped at 55 percent, rather than the 83 percent it would receive if a state. Also, residents are not entitled to certain disability benefits and have restrictions on such funds as the child tax credit.<sup>3</sup>

### Hurricanes and Earthquake

On September 7, 2017, the Category 5 Hurricane Irma passed close to Puerto Rico's main island, resulting in widespread power outages and water service interruptions for several days. Less than two weeks later, Category 4 Hurricane Maria directly hit the island with widespread and catastrophic effects that persisted for months after. According to a RAND Corporation report, the storm impacted 100 percent of the power grid with outages lasting as long as six months and 95 percent of cellular sites, made 43 percent of wastewater treatment plants inoperable and more than 97 percent of the roads were impassable, and caused more than 40,000 landslides.<sup>4</sup> More than 95 percent of Puerto Ricans lacked drinking water, 90 percent of households applied for assistance, and 3,000 people lost their lives. In Maria's aftermath, some 3.4 million American citizens found themselves in a humanitarian crisis replete with water, food, fuel shortages and an uncertain future. Only a few years later (January 2020) a 6.4 magnitude earthquake with continuing aftershocks hit the southwestern part of Puerto Rico (PR), destroying homes and businesses, and further impacting the island's economy and the health/wellbeing of residents.

Like the rest of the world, the pandemic struck PR in March 2020, furthering economic burdens, leaving thousands unemployed, and increasing poverty rates. Schools remained physically closed for the majority of the 2020-2021 school year. A few schools opened on March 15, 2021, but after an April 8th significant spike in COVID-19 cases the government closed the schools again

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<sup>2</sup> "Report: Puerto Rico's Mass Closures of Public Schools Eroding Communities." *Berkeley Othering & Belonging Institute*, 10 July 2023, <https://belonging.berkeley.edu/report-puerto-ricos-mass-closures-public-schools-eroding-communities>. Accessed 17 July 2024.

<sup>3</sup> Matías, J. "Are the Challenges of Puerto Rico's Schools a Taste of What Other Districts Will Face?" *The Hechinger Report*, 12 July 2023, <https://hechingerreport.org/are-the-challenges-of-puerto-ricos-schools-a-taste-of-what-other-districts-will-face/>. Accessed 17 July 2024.

<sup>4</sup> "Puerto Rico's Recovery After Hurricanes Irma and Maria." *RAND Corporation*, 2023, <https://www.rand.org/hsrd/hsoac/projects/puerto-rico-recovery/hurricanes-irma-and-maria.html>. Accessed 17 July 2024.

and they remained closed for in-person learning for the remainder of the 2020-2021 school year. With its unreliable electric grid stemming from hurricanes and an earthquake, inconsistent or absent internet access and access to home computers impacted online learning. An April 22, 2021, U.S. Housing and Urban Development Inspector General report found the U. S. Department of Education had obstructed about \$20 billion for immediate Hurricane Maria relief.<sup>5</sup> And then again, in August 2021, Hurricane Fiona caused widespread flooding and infrastructure damage.

### Federal Education Funding Obstruction and Eventual Relief

In June 2019, U.S. Secretary of Education Betsy DeVos imposed significant funding restrictions against PR stemming from the continuing fiscal consequences of section 936 and the island's natural disasters.<sup>6</sup> These included a requirement that PRDE spend all appropriated fiscal year (FY) 2018 funds before accessing FY 2019 funds. Further, this action was conditioned on PRDE securing a third-party fiduciary agent (TPFA) contract, a requirement not imposed against any other state or territory. In the midst of the pandemic's health crisis, by September 9, 2020, PRDE had not drawn down any of its FY 2019 Title I and IDEA funds totaling \$535 million. On average, other State Educational Agencies (SEAs) had accessed 65 percent of these funds. Furthermore, because PR's TPFA had not yet been executed, the island did not receive its \$400 million share of federal COVID-19 fiscal relief to adapt systems and protocols, acquire technology and safety equipment, and hire staff/specialists needed to restart schools safely with low risk of transmission.<sup>7</sup>

With the presidential administration change, during the spring of 2021 Puerto Rico received about \$6 billion in withheld hurricane relief funds and access to Title I and IDEA withheld funds.<sup>8</sup> U.S. Education Secretary Miguel Cardona eliminated PR's incremental federal grant obligation restrictions, federal financial monitor to supervise aid, and additional financial oversight board. With the use of these and additional federal funds, public school teachers received a temporary 30 percent salary increase, school repairs were expedited, and federal technical assistance helped improve federal program and fund management. Also, tutoring programs were funded,

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<sup>5</sup> HUD OIG Final Report 2019SU008945I. U.S. Department of Housing and Urban Development, Office of Inspector General, April 2021, [https://www.hudoig.gov/sites/default/files/2021-04/HUD%20OIG%20Final%20Report\\_2019SU008945I.pdf](https://www.hudoig.gov/sites/default/files/2021-04/HUD%20OIG%20Final%20Report_2019SU008945I.pdf). Accessed 17 July 2024.

<sup>6</sup> "DeLauro Urges DeVos to Work with Puerto Rico Department of Education to Ensure Access." *Congresswoman Rosa DeLauro*, 3 Oct. 2017, <https://delauro.house.gov/media-center/press-releases/delauro-urges-devos-work-puerto-rico-department-education-ensure-access>. Accessed 17 July 2024.

<sup>7</sup> *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits*. National Council on Disability, 9 Dec. 2019, <https://www.ncd.gov/report/disparate-treatment-of-puerto-rico-residents-with-disabilities-in-federal-programs-and-benefits-1/>. Accessed 17 July 2024.

<sup>8</sup> *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits*. National Council on Disability, 6 Sept. 2019, <https://www.ncd.gov/report/disparate-treatment-of-puerto-rico-residents-with-disabilities-in-federal-programs-and-benefits-1/>. Accessed 17 July 2024.

and school mental health teams were increased, in part by hiring more than 420 school nurses and 110 school psychologists to address severe staff shortages among school health personnel.<sup>9</sup>

### Migration to the Mainland

Although Puerto Ricans have emigrated to the United States for several generations, the number of departures from 2000 to 2010 (300,000) was the largest wave of migration since the 1950s.<sup>10</sup> Another 2017 migration decreased the number of residents (3,337,000) by 142,000 persons as moves to the mainland increased by more than one-third.<sup>11</sup> The impact on PRDE's student population was significant. The enrollment decreased by half in 15 years, from almost 550,000<sup>12</sup> (2006) to about 260,000<sup>13</sup> (2021). PRDE figures for 2024 show enrollment further decreased to about 243,000 students.

Residents leaving for the US mainland have cited their need to achieve economic stability.<sup>14</sup> The substantial exodus of professionals left fewer taxpayers, which further depressed the island's economic activity and increased its precarious financial situation. Medical doctors, educators, and professionals that formed the "brain trust of the island" significantly impacted the availability of necessary services.<sup>15</sup> The 50 percent decrease in student enrollment has meant fewer students learning in under-enrolled schools, leading to mass school closures, longer school commutes, vacant buildings, and reassigned students/teachers.<sup>16</sup> Public school personnel shortages have also persisted between 2013 (500) to 2021 (457).<sup>17</sup>

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<sup>9</sup> Cardozo, Kavitha. "Puerto Rico's Schools Face Ongoing Challenges as New School Year Begins." *NPR*, 16 Aug. 2023, <https://www.npr.org/2023/08/16/1193722562/puerto-rico-schools-education>. Accessed 17 July 2024; and Fonseca, Felice León and Rich. "Puerto Rico's School System Fails Students, Says Federal Government Report." *The Guardian*, 5 Apr. 2023, <https://www.theguardian.com/us-news/2023/apr/05/puerto-rico-school-system-federal-government>. Accessed 17 July 2024.

<sup>10</sup> National Council on Disability. *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits*. 9 Dec. 2019, <https://www.ncd.gov/report/disparate-treatment-of-puerto-rico-residents-with-disabilities-in-federal-programs-and-benefits-1/>. Accessed 17 July 2024.

<sup>11</sup> "Puerto Rico Outmigration Increases, Poverty Declines." *U.S. Census Bureau*, 25 Sept. 2019, <https://www.census.gov/library/stories/2019/09/puerto-rico-outmigration-increases-poverty-declines.html>. Accessed 17 July 2024.

<sup>12</sup> "Table 34. Public Elementary and Secondary School Students, by Enrollment and Race/Ethnicity: Selected Years, Fall 1990 Through Fall 2028." *National Center for Education Statistics*, 2023, [https://nces.ed.gov/programs/digest/d08/tables/dt08\\_034.asp](https://nces.ed.gov/programs/digest/d08/tables/dt08_034.asp). Accessed 17 July 2024.

<sup>13</sup> "District Detail: Puerto Rico Department of Education." *National Center for Education Statistics*, 2023, [https://nces.ed.gov/ccd/districtsearch/district\\_detail.asp?ID2=7200030](https://nces.ed.gov/ccd/districtsearch/district_detail.asp?ID2=7200030). Accessed 17 July 2024.

<sup>14</sup> Ramos, Patricia. "Many Puerto Ricans Leaving U.S. Mainland." *Voice of America*, 16 Feb. 2023, <https://www.voanews.com/a/many-puerto-ricans-leaving-us-mainland/7032522.html>. Accessed 17 July 2024.

<sup>15</sup> National Council on Disability. *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits*. 9 Dec. 2019, <https://www.ncd.gov/report/disparate-treatment-of-puerto-rico-residents-with-disabilities-in-federal-programs-and-benefits-1/>. Accessed 17 July 2024.

<sup>16</sup> Cardozo, Kavitha. "Puerto Rico's Schools Face Ongoing Challenges as New School Year Begins." *NPR*, 16 Aug. 2023, <https://www.npr.org/2023/08/16/1193722562/puerto-rico-schools-education>. Accessed 17 July 2024

<sup>17</sup> *Ibid.*

## Poverty

Puerto Rico's staggering 44.1 percent poverty rate is more than three times higher than the US average, and two times higher than the Mississippi average (19.6%), which is the poorest US state.<sup>18</sup> Over 36 of the island's 78 municipalities have more than 50 percent of their population living in poverty.<sup>19</sup> Furthermore, in 2021 while the U.S. poverty rate was 17 percent, more than half of PR's children (56%) lived in poverty. The rate for PR children residing in rural areas was even higher.

## Governance

The consistency of PRDE leadership has also suffered over the years. For 18 years (between 2005 and 2023) 11 Secretaries served: one for four years (2013-2017), two each serving for two years (2017-19 and 2021-23), and eight for one year or less.<sup>20</sup> The current secretary, long-time educator and former regional director, Yanira Raíces Vega, has been in place since November 13, 2023. Such leadership changes often result in new upper and mid-level administrators, with staff required to adapt to different expectations, processes, procedures, and system goals. Associated changes reduce institutional knowledge and instability significantly impacts schools.

## Rosa Lydia Vélez Litigation

The 44-year-old state class action *Rosa Lydia Vélez, et al., v. Awilda Aponte Roque et al.*, (Rosa Lydia Vélez or RLV) was settled with an agreement in 2000 and has enormously impacted the administration/operation of special education at the central, regional, and school levels. At the time of our visit, RLV had 77 stipulations that guided monitoring, each with several components. According to documents provided to the Council team, PRDE has paid an unprecedented \$11,000 per day fine for noncompliance sanctions, a total of \$40 million since the imposition of this remedy. In addition, in 2022-23, estimates indicated that about 18,033 professional service hours (about 8 work years) were required to prepare required reports. For 2023-24 through February 2024, 14,152 hours (about 13 work years) were required.

## Optimism for the Future

Despite the impact of Hurricane Maria, the earthquakes, the pandemic, and staff turnover, the Council SST's interactions with PRDE central, regional, and school-based personnel have shown

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<sup>18</sup> National Council on Disability. *Disparate Treatment of Puerto Rico Residents with Disabilities in Federal Programs and Benefits*. 9 Dec. 2019, <https://www.ncd.gov/report/disparate-treatment-of-puerto-rico-residents-with-disabilities-in-federal-programs-and-benefits-1/>. Accessed 17 July 2024.

<sup>19</sup> *Pervasive Poverty in Puerto Rico: A Study of the Challenges and Opportunities*. Centro de Estudios Puertorriqueños, Hunter College, 2023, <https://centopr.hunter.cuny.edu/app/uploads/2023/09/Pervasive-Poverty-PR-1.pdf>. Accessed 17 July 2024.

<sup>20</sup> "Secretary of Education of Puerto Rico." *Wikipedia*, 16 July 2024, [https://en.wikipedia.org/wiki/Secretary\\_of\\_Education\\_of\\_Puerto\\_Rico](https://en.wikipedia.org/wiki/Secretary_of_Education_of_Puerto_Rico). Accessed 17 July 2024

resilience and tremendous expressed desire to support the needs of students. The team was also impressed by the many interviewees with postgraduate and multiple degrees. A positive aspect of the island's education system is the University of Puerto Rico's greater accessibility and affordability compared to the mainland's system. The average U.S. public institution annual tuition is \$25,707 (for residents) or \$44,014 (for nonresidents).<sup>21</sup> By comparison, University of Puerto Rico tuition is \$4,366 (for residents) and \$8,712 (nonresidents). Another positive note is the increasing number of residents moving back to the island from the mainland, which was 17,859 in 2021 and 24,531 in 2023.<sup>22</sup>

### Decentralization of PR Education System

PR Governor Pierluisi, together with the U.S. Education Secretary Miguel Cardona, signed an Executive Order to formalize their partnership for Decentralization of the PR Education System.<sup>23</sup> The initiative aims to provide PRDE regions more autonomy and oversight authority, less bureaucracy, and greater local level decision-making responsibility. The phased in process with three pilot regions had a scheduled review for June 2024. Plans call for the central office to transition by September 2026 to a new SEA structure, with the local education agency (LEA) structure about 75 percent complete. The U.S. Education Department's Puerto Rico Education Sustainability (PRES) team is in place to strengthen PRDE's stewardship of federal funds and improve educational outcomes for students.<sup>24</sup> To date, the PRES team has provided technical assistance and training to the PRDE for financial/grants management; K-12 education; special education; and adult, career, and technical education.

### Challenges

In September 2014 Governor Padilla signed an Executive Order to create the Commission for the Transformation of Special Education (Commission) to recommend improved services and promote RLV compliance. The Executive Order identified six areas for the Commission to address. The final report issued in December 2016 included many findings and associated recommendations that align with our recommendations. These include but are not limited to –

- Attention to early childhood education;
- Use of response to intervention (RTI) to strengthen general education and reduce the number of students needing special education;

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<sup>21</sup> Matías, J. "Are the Challenges of Puerto Rico's Schools a Taste of What Other Districts Will Face?" *The Hechinger Report*, 12 July 2023, <https://hechingerreport.org/are-the-challenges-of-puerto-ricos-schools-a-taste-of-what-other-districts-will-face/>. Accessed 17 July 2024.

<sup>22</sup> Ramos, Patricia. "Many Puerto Ricans Leaving U.S. Mainland." *Voice of America*, 16 Feb. 2023, <https://www.voanews.com/a/many-puerto-ricans-leaving-us-mainland/7032522.html>. Accessed 17 July 2024.

<sup>23</sup> "IDEA-R Program." *Puerto Rico Department of Education*, 2023, <https://de.pr.gov/idear/>. Accessed 17 July 2024.

<sup>24</sup> "IDEA-R in Puerto Rico." *U.S. Department of Education*, 2023, <https://www.ed.gov/PuertoRicoIDEAR>. Accessed 17 July 2024.

- Improve important relationship between special education and general education;
- Move towards integration/inclusion, providing services in the school closest to the student, and avoid creation of special schools;
- Focus on instruction to truly transform special education;
- Provide related services at the schools where children attend instead of outsourcing them to alternative sites where students commonly miss two to three class periods as much as three times each week;
- Reduce use of private corporations for conducting evaluations and related services;
- Strengthen high school transition services;
- Improve relationships with families; and
- Develop a special education purchasing structure that expedites required purchases necessary to meet student needs.

Puerto Rico's decentralization initiative has great promise for addressing the above issues, especially to facilitate school-based evaluations and services, supporting instructional practices, and expediting purchasing. Our report builds on the Commission's work to address the many educational challenges facing the country's public schools and SwDs. In addition, we employed a decentralization lens to supplement our recommendations.

## EXECUTIVE SUMMARY

The Puerto Rico Department of Education (PRDE), through IOTA Impact, approved the Council of the Great City Schools' (CGCS) proposal to assess and recommend actions to improve the Department's administration, operation, and provision of special education instruction/related services.<sup>25</sup> When assessing special education, the Council's Strategic Support Team (STT) always begins its review using a lens of multi-tiered system of supports (MTSS). This framework integrates core instruction with increasingly intensive interventions based on problem-solving and student progress monitoring data. Its design is intended to support ALL learners' academic, social, emotional, and behavioral health needs. We also used the lens of decentralization to consider current challenges and to recommend associated actions.

To conduct this work, the Council assembled a team of experts with strong reputations for and extensive related experience, including members with Spanish fluency and history with educators in Puerto Rico. We conducted onsite interviews over eight days during two visits (February 26 – March 1, 2024, and March 26 – 28, 2024.) This included visits with personnel at the central office, regional offices (San Juan, Caguas, Morovis, and Mayagüez), special education service centers (San Juan, Caguas, Ponce, Mayagüez), and schools (in Ponce and Añasco). We interviewed 65+ individuals representing central, regional, and special education service center offices, schools, parents, and university professors. In addition, we reviewed federal/state requirements, PRDE guidance, and Rosa Lydia Vélez documents. No individual is personally named or referred to by title unless necessary for contextual reasons.

It is important for readers of this report to understand that the Council SST's gathering of qualitative/quantitative information do not meet state/federal compliance monitoring standards with which several members have extensive expertise. Interviewees' anecdotal information was gathered and shared to give a sense of practices that extend understanding of written descriptions. This enables team members to use their collective knowledge and experience to share recommended suggestions for consideration.

We know that special education is only one of several major challenges PRDE faces. But with almost all students with disabilities (SwDs) educated most of the time in regular classrooms, their academic outcomes and wellbeing is dependent, in major part, on significantly improving teaching/learning for all students. The public should know that it is going to take some time to address the challenges identified in this report and implement associated recommendations. The Council is available to help in any way deemed beneficial and constructive during the implementation of these recommendations.

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<sup>25</sup> Note: a slash (/) is used to denote the word "and" to improve the reports readability.

## I. MULTI-TIERED SYSTEM OF SUPPORTS (MTSS) FOR ACCELERATING STUDENT ACHIEVEMENT AND WELLBEING

In 2012, the Council of the Great City Schools (CGCS) published a [white paper](#) to inform its member boards of education and administrative leadership about Multi-Tiered System of Supports (MTSS) framework designed to enhance educational outcomes for all students. MTSS integrates core curricular instruction with increasingly intensive interventions informed by progress monitoring data.

Various factors, such as educational opportunities, teaching practices, and family circumstances, can negatively influence students and their performance in literacy, numeracy, and behavior. When implemented with fidelity, MTSS helps ensure these factors are considered before making special education referrals or determining eligibility for services. Moreover, when MTSS-related practices demonstrate student progress, the pressure for special education registration and eligibility declines.

### MTSS Framework and Essential Components

MTSS encompasses elements of both Response to Intervention (RTI) and Positive Behavior Interventions and Supports (PBIS). RTI, which emerged in the 1980s, aimed to provide supplementary instruction for students falling below expected achievement, potentially reducing special education racial/ethnic disproportionality. The 2004 Individuals with Disabilities Education Act (IDEA) amendments endorsed RTI as an alternative to the discrepancy model for identifying specific learning disabilities (SLD). PBIS, which also evolved in the 1980s, offered an approach to address students' behavioral and social-emotional challenges also through a continuum of evidence-based interventions. During the first decade of 2000, MTSS advanced to integrate academic, behavioral, and social-emotional supports into a cohesive framework that emphasizes evidence-based core instruction with differentiated approaches and interventions to meet each student's needs. Essential components include regular monitoring and evaluation of student progress using multiple data measures, differentiated instruction based on data analysis, and tiered interventions when students fail to make adequate progress.

### PRDE's Approach to PBIS and RTI

Discussions with central, regional, and school-based staff reflected their familiarity with and use of RTI and PBIS, but not MTSS. However, RTI and PBIS alone or simply combined do not substitute for the comprehensive benefits of MTSS.

RTI initiatives include a math-focused State Systemic Improvement Plan (SSIP) targeting fifth-grade SwDs. However, feedback highlighted a need for 1) general education leadership; 2) consistent use of interdisciplinary teams; 3) support for Tier 1 core instruction to meet most (80%) student needs; 4) data-driven instruction; 5) tiered evidence-based reading interventions; and 6) strategic school planning. Documents showing PBIS training since 2018 emphasized

Trauma-Informed PBIS for kindergarten through eighth grade. High-quality materials described tiered behavioral support, impacts of natural disasters and the pandemic, data-driven problem-solving, and functional behavior assessments. However, feedback revealed implementation challenges such as personnel resistance, burnout, and limited training during recent school years. Much more needs to be done to stem the flow of students being identified as having a disability when in fact targeted, high quality instruction is needed (particularly given the natural and pandemic related challenges identified earlier).

### Core Spanish, Mathematics, and English Instruction

PRDE shared various curriculum documents, including curriculum frameworks for Spanish literacy, Mathematics, and English. While the frameworks contain a plethora of information related to research-based techniques, they lack guidance that operationalizes the curriculum and that would help teachers know what to teach and how to teach it, as well as how they will know if students have learned what was taught. Interviewees expressed concerns about strict pacing schedules, the lack of a standard reading or mathematics curriculum with aligned materials, and an absence of a common evidence-based reading model supported by training. There was also a desire for culturally appropriate materials tailored to Puerto Rican students and a structured professional development calendar.

The English Curriculum contains a compendium of numerous approaches, methods, and theories of teaching and learning. However, it does not evidence the critical Spanish/English program alignment that the Puerto Rico Educational Reform Law references. It is important that evaluation instruments PRDE/contractual companies use to conduct evaluations are sensitive to whether the student is bilingual, and if so, consider progress in English (bilingually) as well. These cumulative abilities may not be evident when assessing in just one language.

### Special Education Procedure Manual References to General Education Interventions

Various sections of the Special Education Procedure Manual (Manual) require documentation prior to registration (special education evaluation referral) showing a student's achievement and/or behavior did not improve with the use of strategies designed for these purposes. Information did not refer to the receipt of quality core instruction or increasingly intensive interventions. Also, the Manual established that 1) initial special education evaluations must consider if a student's underachievement is due to a condition, disorder, or delay; and 2) SLD and/or emotional disturbance eligibility decision-making must consider a student's response to interventions. However, **without attention to the quality of core instruction, appropriateness of interventions, and their intensity (i.e., session frequency, time, and group size), any determination that these issues did not contribute to continued low achievement or poor behavior is questionable.** The MTSS framework is intended to address these circumstances.

### Implications for Decentralization

Between 2015-16 and 2023-24, the percentage of PRDE students receiving special education increased from 32.5% to 37.3%, compared to the 14.7 percent latest U.S. rate (2021-22). Interviewees attributed Puerto Rico growth to natural disasters, the pandemic, and RTI implementation shortfalls. The [2016 Commission for the Transformation of the Special Education Program](#) (2016 Commission Report) identified RTI as a key issue for transforming special education, emphasizing collaboration between general and special education. Interviewees expressed a desire to strengthen general education and provide meaningful early interventions to facilitate student success. Concerns included the lack of a strong core curriculum, insufficient evidence-based interventions, and inadequate progress monitoring. There was a consensus that special education is often viewed as the first option for struggling students, highlighting a need to address this issue with public policy, explicit procedures, continued professional development, and a structured communication plan tailored to parents, teachers, the broader community, and administrators.

### Recommendation 1. Spearhead MTSS Understanding and Implementation

To enhance academic achievement and social/emotional well-being for all students, advance MTSS understanding and implementation, building on existing RTI and PBIS initiatives. Emphasize that MTSS is not a special education – but an “every ed” – initiative.

#### SEA Core Leadership Team

Form an SEA<sup>26</sup> leadership team with cross-cutting representatives from LEAs and schools, including experts in RTI, PBIS, and evidence-based reading instruction. Identify a project manager with direct report to the Secretary of Education to track actions and their status. (As appropriate, use the project manager to support all recommended actions.) Task the team to gather *initial* information to inform a proposal for planning an MTSS framework for Puerto Rico. MTSS has many online resources, including SEA, school district, and federally funded technical assistance center, that describe the framework with consistently similar components. [See, e.g., [California](#), [New York](#), [Florida](#), [Colorado](#), [South Dakota](#), and [Broward County School District](#) (Florida)]. Within a few months for this first step, have the team produce a *brief* report of their work that would propose, for the Education Secretary’s approval, the outline of an MTSS action plan.

#### MTSS White Paper for Puerto Rico

Upon completion of initial research, have the SEA sponsor a white paper document to broadly communicate the MTSS framework, tailored to Puerto Rico. Emphasize the framework’s intent to improve student achievement and well-being. Describe expectations for and how effective

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<sup>26</sup> Recommendations use the term “SEA” for central office and “LEA” for regional offices to reflect the new terminology of decentralization.

early academic/behavioral interventions can improve academic achievement/wellbeing and reduce need for special education.

### **MTSS Action Plan Content Areas**

As part of the SEA Core Leadership Team's action planning address the following specific areas –

- Universal Design for Learning's (UDL) flexible approaches for students to access materials and demonstrate knowledge.
- Tier I core instruction, Tier II targeted interventions, and Tier III intensive interventions.
- Evidence-based reading, mathematics, and behavior interventions suitable for Puerto Rico.
- Strategies for close reading and understanding complex texts.
- Types of monitoring, frequency, and adjustment processes.
- Processes for reviewing progress monitoring data and making intervention recommendations.
- Professional learning (PL) needed to support LEA personnel and schools (See SEA links cited in the Council SST report.).
- Self-assessment tools for schools to improve MTSS implementation.
- Strategies to engage families.
- Braided funding strategies for combined fund sources.
- Feedback loops for LEAs, schools, and stakeholders to provide feedback.

### **Action Plan Implementation**

Have the SEA Core Leadership Team consider a phased-in four-year timeframe for island-wide implementation and address the following process elements –

- Individual who will oversee MTSS at the SEA level.
- Leadership teams at SEA, LEA, and school levels, involving multiple disciplines.
- Templates for LEAs and schools to create their implementation plans.
- Descriptions of expected activities for, e.g., core curriculum guidance, and intervention strategies.
- Material resources gap analysis and needed funding to fill gaps.
- Catalog of approved, evidence-based Spanish, English, and mathematics core instruction/intervention catalog. (Have selections reflect an agreed-upon language development approach based on sound theory/research, with clear expectations and non-negotiables identified so that there is consistency across classrooms and schools. Professional development could then become more targeted and monitoring implementation would be facilitated).
- Assess core purchased programs for supplementary materials needed for intervention and

for specially designed instruction for SwDs, as well as assessments to monitor progress.

- Collect/analyze curriculum-based measurements to inform instructional decisions and determine need for interventions/enrichment (This action is critical to improve results and reduce special education referrals).
- Cross-cutting training for SEA, LEA, and school personnel to ensure common understanding.
- Identification of knowledgeable staff to serve as trainers and supplement with external experts as needed.
- Use of various formats (videos, webinars, narratives) for training.
- Walkthrough protocols to observe MTSS implementation and identify concerns.
- Highlighting of best practices and successful schools (Facilitate of visits to exemplary schools in Puerto Rico and in other large urban districts across the country).
- Dedicated website to post all relevant information and updates.

### **Data Analysis and Reports**

Enhance current data collection with MTSS-related metrics and use data to assess the impact of MTSS on student achievement.

### **Timely Communication and Feedback**

Assign responsibility for communicating MTSS progress through various media. Create feedback loops for continuous improvement from LEAs to SEA and from schools to LEAs.

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## **II. DISABILITY DEMOGRAPHICS AND ELIGIBILITY**

This section provides an overview of PRDE disability demographics and special education eligibility. Information underscores significant disparities in special education demographics, the processes of registration and evaluation, and the anticipated impact of decentralization on these processes. It reveals the need for improved training, clearer guidance, and strategic planning to address the high rates of special education eligibility and ensure effective implementation of decentralization initiatives.

### **Special Education Demographics**

Data for various Puerto Rico demographics show significant variances by identification and other indicators such as age, and disability area. Although variations are not unusual, large disparities reflect need for improved criteria and decision-making guidance. For example, a much larger proportion of Puerto Rico students received special education (46%) compared to the US (15%). Regional variations are significant, with highest rates in San Juan (55%) and Bayamón (53%), and lowest rate in Humacao (38%). Rates fluctuate across grades and by disability area, with notable differences in SLD, OHI, SLI, autism, ID, and ED. Additionally, 37 percent of young PreK children

receive special education at home, with regional rates varying from Mayagüez (49%) to San Juan (30%). Registrations for evaluations that increased from 2022-23 (9,833) to 2023-24 (10,209) also varied by region.

### **Parental Request for Special Education Registration**

There is a prevalent belief that PRDE personnel must register students upon parental request, which contrasts with U.S. practices and PRDE district documents. However, the Special Education Manual includes a form used when denying a parent's request for an initial evaluation. The form requires personnel to give the reason for the denial and provide notice of procedural safeguards to parents.

### **Section 504 Data, Operation, and Decentralization Implications.**

Puerto Rico's Section 504 eligibility rate (0.39%) is significantly lower than the US average (3.25%), and the rate varies significantly by region. Interviewees shared concerns that Section 504's limited use and insufficient organizational oversight may have led some students to receive special education instead of Section 504 accommodations.

### **Implications for Decentralization**

Decentralization plans aim to expedite registration through school management, a practice seen as beneficial but raising concerns about the potential for increased special education evaluations and staffing adequacies. A potential future shift to school-based psychological and other evaluations is intended to reduce reliance on external evaluators. Interviewees expressed concerns about the capacity of school psychologists to manage additional responsibilities and having access to sufficient assessment tools. Decentralization plans also include school-based eligibility meetings. Concerns were noted about potential inconsistent eligibility decisions, need for training, and scrutiny of evaluator recommendations. Information on how Section 504 processes would be integrated into decentralization efforts was lacking, highlighting the need for clearer implementation strategies.

### **Recommendation 2. Improve registration, evaluation, and eligibility practices.**

With Puerto Rican students three times more likely than US students to receive special education/related services, the corresponding demands for resources are not sustainable nor manageable. They also negatively impact service delivery, as well as Rosa Lydia Vélez (RLV) compliance. To address this reality, there must be a broad public reckoning that special education is not the answer for all students with educational challenges and teachers with instructional difficulties. Recommendation 1, relating to understanding/implementing MTTSS, is designed to address this problem. There must also be a public reckoning that registration, evaluation, and eligibility processes require controls, such as those recommended below.

### Core Team

Have a reasonably sized, cross-cutting core team of persons (e.g., regular/special education and related services representatives at the SEA, LEAs, and school levels; stakeholder representatives). Have the group review the data/exhibits listed in this report and others they request. Use the data to identify outlier results and develop root cause hypotheses for areas of concern and follow-up action needed. Submit a brief summary of findings and recommendations for action planning for consideration/approval by the assistant superintendent for special education (SAEE) and senior leadership team.

### SEA Action Plan

With the cross-cutting core team and others with relevant information develop an action plan that addresses issues such as the following–

- **Hiring** larger number of evaluation personnel to reduce reliance on outside evaluators and to evaluate students at school, except for unique assessments. This process would eliminate any potential conflict of interest associated with assessors recommending PEI services sponsored by their employers.
- **Assessing quality of sample evaluations** across regions by knowledgeable personnel to consider need for additional guidance, protocol, quality review process, etc.
- **Confirm right to deny parent registration request** and its communication to all relevant personnel. Include for the SAEE's approval a screening protocol for personnel to document reasons that do/do not support a disability suspicion, and guidance for appropriate registration decision-making.
- **Root cause hypotheses protocol** for disparate disability eligibility rates. For this purpose, use staff with high levels of expertise.
- **PEI Facilitation** process, which many SEAs sponsor to support COMPU consensus building. See [About IEP Facilitation](#) and [State-Sponsored IEP Facilitation](#).
- **Psychologist capacity** to conduct school-based assessments. Include consideration of any duty changes that do not require PEI-associated changes. Also consider recruitment efforts or use of virtual assessments for students at schools in hard-to-reach locations.
- **Eligibility meeting** review to assess their inclusion of individuals (including students' teachers) having expertise/knowledge necessary to critically consider evaluation reports (especially those from outside providers) and to make appropriate eligibility decisions.
- **Protocol by disability area** with criteria to support appropriate eligibility decision-making. See, e.g., [Louisiana Department of Education](#) criteria.
- **Section 504** oversight and management at the SEA, LEAs, and school levels to improve management/identification of potentially eligible students.

In addition to the above substantive areas, include activities for written guidance necessary to carry out actions, e.g., for Section 504 (see [Section 504 Procedural Manual](#)). In addition, describe plans for professional learning; need for human/material resources; and monitoring to identify any data spikes and/or noncompliance generally or potentially associated with decentralization.

### LEA and School-based Core Team and Action Plans

Draft templates for LEAs and schools for action planning. Obtain representative feedback prior to finalization. With cross-cutting LEA and school teams having representatives such as those on the SEA team, action plan to implement each relevant area.

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## III. DATA ASSOCIATED WITH SWD ACHIEVEMENT

This section provides data for the following areas associated with achievement: reading and math proficiency on statewide assessments; alternate assessment participation and outcome; graduation and dropout; outcomes one year post high school; out-of-school suspensions; educational environments for young children and school-aged children; and parent placements.

### Outcomes for SwDs Aged 3 through 5 Years

The federal state performance plan (SPP) measures the achievement of young children with disabilities between ages three and five across three components: appropriate behavior, acquisition/use of knowledge/skills, and positive social/emotional skills. Children –

- **Met standards** from 2020-21 to 2021-22 with outcomes increased for appropriate behavior [by .93 percentage points (pp)] and decreased for knowledge/skills (by -4.8pp) and positive social/emotional skills (by 2.63 pp).
- **Significantly improved developmental skills** for areas related to social/emotional skills (41.53%), knowledge/skills (47.51%), and appropriate behavior (48.74%). All rates were below PRDE targets and declined from 2020-21.

### Achievement-Related Data for School-Aged SwDs

Despite progress in areas like increased graduation rates and favorable postsecondary outcomes, challenges remain in meeting educational standards and ensuring consistent improvement across regions. The following data is from the latest 2021-22 SPP publication and PRDE 2022-23 data.

- **Reading proficiency** overall rates increased to 26% (by 2pp) from the previous year. Regional performance varied, with Caguas achieving the highest rate (34%) and Humacao and San Juan the lowest (21%), per PRDE data.
  - **Math proficiency** overall rates increased (to 20%, by 2pp) from the previous year. Regional performance ranged from Caguas (27%) to San Juan (15%), per PRDE data.
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- **Alternate assessment** participation rate (1.8%) exceeded the maximum 1 percent federal cap. Regional rates ranged from Caguas (1.5%) to San Juan (2.1%), per PRDE data.
- **Alternate assessment proficient** rates met reading targets at grade 8 (57.25%) and high school (60.00%) and was slightly below the grade 4 target (55.00%, by 1pp). Math proficient rates met SPP targets first set that year: grade 4 (59.49%), grade 8 (44.53%), and high school (58.70%), per PRDE data.
- **Graduation rates** increased in 2022-23 (to 64%), with regional rates ranging from San Juan (67%) to Mayagüez (60%), per PRDE data. The 2021-22 SPP rate (63.20%) was below target (62.00%).
- **District reported dropout rates** decreased in 2022-23 to 19 percent, ranging from Mayagüez (27%) to Bayamón (12%). The 2021-22 SPP rate increased to 31 percent, above the maximum target (35%).
- **Outcomes one year post high school** met or exceeded SPP target for students enrolled in higher education (48.7%), employed or enrolled in higher education (84.7%), and either in higher education, employed, or in some postsecondary training program (95.8%). Note this outcome is based on survey results, which may be skewed by young adults who responded and were present in one of these categories.
- **Out-of-school suspensions (OSS)** were commendably low, with a report of only 88 students across the island. (PRDE data)
- **Young children educational environments** showed most were educated in regular early childhood (EC) classes (83%); a rate significantly higher than the US average (42%). The SPP rate was 81.35%, slightly above target. Only 0.38% were in separate classes compared to the US rate of 28%. (PRDE data) The SPP rate for separate classes was 0.31%, well below target (0.60%).
- **School aged educational environments** showed a high rate (79%) for the 100% - 80% time in general education (gen ed) classroom category, exceeding the US rate (67%) and SPP target (67.85%). For the 79% - 40% gen ed category, the rate (4.4%) was significantly lower than the US rate (13%). For separate classes (< 40% in gen ed), both PRDE and US rates were the same (13%), but PRDE exceeded its SPP target (9.55%).
- **Parent placement** had a higher rate (8.0%) compared to the much lower US rate (2%).

### Recommendation 3. Benchmark, track, and use achievement data to support improvement

To help SwDs achieve their full potential, benchmark, track, and use achievement data to inform practice. This approach is necessary to know students are learning, and on track for postsecondary education, training programs, or competitive employment. Positive learning and

social/emotional-behavioral outcomes – even more than procedural compliance – can mitigate parent and stakeholder complaints.

### Cross-Cutting SEA Team Developed Indicators

With members from various regions and schools, review and analyze Council SST report and other relevant achievement related data, e.g., absenteeism. Have the team –

- Develop a list of indicators sorted by LEAs and school, ensuring each cell size numbers at least “10;” and familiarize team members with data related to SPP indicators, Results-Driven Accountability (RDA), and RLV stipulations.
- Provide feedback to produce a user-friendly data presentation format showing SEA and each LEA/school outcomes to inform action planning.
- Review data for the 79% - 40% general education environment to initiate discussion of structural and/or other barriers preventing students from being educated less restrictively than in special classes. For example, consider if school schedules, special education teacher availability, or students leaving school for related services are influencing these decisions.

### SEA Action Plan, Template, and LEA/School Plans

Have the SEA team create a comprehensive action plan and template (developed with feedback) for LEAs and schools to develop their own plans. Include –

- **Achievement Targets.** Set statewide and regional targets reflecting SPP and/or RLV goals. Additionally, establish progress goals for areas where current outcomes are significantly below targets, and revising them annually based on prior year outcomes.
- **Evidence-Based Strategies.** Include evidence-based strategies to guide LEAs and schools. Examples include dyslexia guidance (e.g., California [Dyslexia Guidelines](#), particularly Chapter 11 for effective teaching approaches); University of Chicago’s [study](#) on supporting students with IEPs to graduate, PACER Center [strategies](#) to prevent SwD high school dropouts, and absenteeism reduction [strategies](#).
- **Showcase Exemplary Schools.** Develop a process to identify and showcase schools with exemplary outcomes in specific areas. Highlight their strategies, successes, and progress, ensuring these examples are reflective of the island's SwD demographics.

In addition to the above substantive areas, include activities for written guidance necessary to carry out actions, describe plans for professional learning; need for human/material resources; and monitoring to identify any data spikes and/or noncompliance generally or potentially associated with decentralization.

### LEA Leadership Team and Action Plans

Establish cross-cutting LEA teams similar to the SEA team, including representatives from various sectors. Have the teams review regional data to benchmark against average outcomes and

disaggregate scores by school to identify disproportionate outcomes. Based on data analysis, have action plans addressing common issues across schools. In addition to SEA targets, set LEA progress goals for areas significantly below SEA targets, revising these goals annually based on outcomes. For schools with outlier data, provide targeted support to develop action plans addressing specific issues. Ensure these plans include additional guidance, training, assistance, and follow-up monitoring.

#### **School Leadership Team and Action Plan**

Have school-based team structures similar to SEA/LEA teams to develop action plans tailored to improve outcomes in each relevant area. Identify and implement activities most likely to improve outcomes for identified outlier indicators, working closely with LEA personnel to ensure alignment and effectiveness. Set specific progress targets for outcomes far below SEA targets. Revise targets annually based on previous year's outcomes to promote continuous improvement.

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### **IV. SUPPORT FOR ACCELERATING SWD ACHIEVEMENT/WELLBEING**

Interviewee desire to improve special education services is evident. While significant progress has been made, particularly with inclusive early childhood education, other areas need further development, such as specially designed instruction (SDI) strategies/instructional materials, professional learning, progress monitoring, and secondary community/work-based learning, administrative support. Of major concern is the disproportionate reliance on relate services, including their lack of direct relevance to classroom learning, common off-site location, associated transportation challenges/costs, increased provisional remedies use, and their contribution to RLV noncompliance.

#### **Educating Young Children with Disabilities**

Overall, 2022-23 PRDE data shows a high rate (83%) of children receive services in early childhood (EC) classes, significantly higher than the U.S. average (42%). However, several Special Education Manual descriptions for educational settings, particularly for home services and services at other locations, do not foster peer interaction.

#### **Specially Designed Instruction (SDI) for School-Aged Students**

Various guidance documents outline educational settings along with graduation routes. They provide information about differentiated instruction resources, but little about SDI generally and for students with dyslexia and others with low reading achievement particularly. The Public Policy and Special Education Manual outline several models for educational settings and routes to graduation. These include regular classrooms with supplementary services, resource services, and full-time special classrooms. While these documents provide detailed eligibility criteria and service configurations, they could be more comprehensive and user-friendly. For example, see LAUSD's electronic special education guidance [webpage](#). Also, guidance references and PEI

inclusion of students' IQ scores are not appropriate. Such reliance and posting supports biased educational decisions and limits a holistic assessment of student abilities.

In addition, we found the following based on our document review –

- **Instructional Support for Reading.** Various documents describe and reflect resources available for differentiated instruction. However, they lack reference to specialized resources for students reading below grade level, especially in grades no longer having curriculum covering areas of student need. The absence of information/material for students with dyslexia and others with very low reading achievement generally is a critical gap that needs attention.
- **Instructional Support for Math.** The State Systemic Improvement Plan (SSIP) focuses on improving math performance for SwDs through RTI strategies. The document includes professional development, data-driven practices, and team-based approaches to enhance instruction. However, the limited scale of the pilot program and lack of detail on Tiers 2 and 3 interventions highlight expansion and refinement needs.
- **Progress Monitoring.** The current system appears to lack robustness needed to adequately track and support educational growth. PRDE's written response revealed personnel simply track student outcomes by reviewing PEI progress every ten weeks (like with non-disabled students) and using grades. Low academic outcomes suggest use of inconsistent practices and need for more effective follow-up support. Interviewees expressed their desire for more effective monitoring tools.
- **Transition Services and Support.** The transition from school to postsecondary life is a critical aspect of special education and without significant investment outcomes will remain poor. Puerto Rico's employment rate for people with disabilities is notably low (23.7%). Research shows high school work experiences significantly improve post-graduation employment prospects for SwDs. Quality work-based learning experiences, as advocated by the [National Technical Assistance Center on Transition](#), are essential. The [Guide for Transition from School to Post-secondary Life](#), while comprehensive, is difficult to navigate. The Guide's MTSS approach for vocational evaluation is complex and could benefit from clearer content examples and community-based work activity guidelines. Examples from other SEAs, like New Jersey's [Transition Toolkit](#), offer user-friendly information.
- **Administrative Support.** PRDE considers transition services to be a priority area, but low salaries and limited applicant interest have delayed filling coordinator and facilitator positions. Although teachers involved with transition services/activities receive training, the complexity of information and limited number of available trainers challenge the delivery of effective support. Interviewees highlighted issues with vocational assessments, the availability of transition-associated workshops, and the need for more community-based work opportunities.

- **Professional Learning (PL).** Ongoing PL for educators is vital for successful SDI implementation. Overall, current PL is fragmented and often focused more on compliance than on enhancing teaching/learning. Interviewees reported inconsistencies in training frequency and content, with some receiving little to no PL for years. There is a significant need for comprehensive planning that addresses SDI strategies and subject-specific areas. Also, interviewees expressed concern about central office mandates that dictate school-based training content without considering individual school needs. Training predominantly addresses compliance and MiPE functions and have a limited focus on, e.g., ways to accelerate reading achievement. Interviewees also referred to PL needs in areas such as case management, progress monitoring, autism instruction, technology integration, etc.
- **Parent Engagement.** Engaging parents in the special education process is a key factor in student success. Parent Academies and Service Fairs are initiatives aimed at increasing parent involvement, offering training on various relevant topics. Latest SPP data showed a large majority (83.01%) of parents felt involved in special education services; the rate was slightly below target.

#### Disproportionate Emphasis on Related Services

Based on the Council SST's experience, data and interview feedback, PRDE students receive a disproportionately high proportion of related services (RS) support compared to special education support. In this way, RS seems to have a priority higher than special education, especially for its SDI purpose. For example, based on a few PEIs that PRDE shared, one 6.6-year-old student with low average academic performance had an educational gap needing moderate/significant support. Yet, the PEI specified a weekly total of 60 minutes for education and 135 minutes for RS (psychological and OT). Another PEI example referred to a RS Intervention Plan (SAEE-SR-1-03), which is not also used to describe a student's receipt of special education. These plans are not IDEA-required or used by districts with whom we have experience. Unlike the PEI's annual review requirement, intervention plans require January and May reviews with parents and require their signatures. These processes add paperwork and outside RS provider costs, which are further addressed below. Pursuant to RLV Stipulation 45, PRDE must also measure intervention plan completion timeliness.

The apparent lack of clarity regarding RS needs and purpose of special education benefit is further impacted by reliance on outside corporations with more expensive providers than PRDE staff. Also, use of corporation therapists for evaluation assessments and their recommendations for speech/language therapy, occupational therapy (OT), and physical therapy (PT) that corporate therapists provide raise conflicts of interest issues. For example, Puerto Rico's high RS use is evidenced by student to provider ratios. The island's ratios are much lower compared to 81 school districts for which the Council SST has data, reflecting a much higher PR availability. This is especially noteworthy compared to ratios for students to special educator and to assistants, showing lower availability. For example - in PRDE, there are 18.4 SwDs per special educators.

There are 63 of 82 reporting districts with *smaller* ratios – or, 77% of the reporting districts. This means that 77% of reporting districts had fewer SwD per special educator. The survey results show the following percentages of districts with smaller ratios than PRDE in other areas: teacher assistants (59%), speech/language pathologists and therapists (1%), psychologists (0%), social workers (8%), nurses (26%), OTs (3%), and PTs (18%). These ratios reflect average numbers of SwDs for a single provider. District rates with **smaller** ratios than PRDE reflect **fewer** SwDs per provider. For example, no district has a smaller student to psychologist rate than PRDE.

Furthermore, for too many students therapy services are located away from school, requiring them to go off-site and miss their general/special education instruction. Under these circumstances school-based special educators are unable to collaborate with RS providers to share important information. This is especially important because RSs are intended to benefit special education. Off-site RSs also present transportation challenges presented by per student transport to different locations, including those from 1 to 5 times per day or week. From a student perspective, this also represents a significant amount of time away from direct instruction in the classroom (particularly when travel time is added for students).

Interviewees also expressed concern with the substantial costs associated with purchased therapy services, ranging from \$10,000 to \$45,000 monthly per student. More detailed cost data for PEI-required services and provisional remedies would be useful for further analysis. Also, the RLV stipulations associated with the provisional remedy primarily refers to unmet RS requirements, further contributing to unusually high costs and noncompliance.

#### Recommendation 4. Use SDI Principles to Accelerate Learning

Use the SDI principles below to accelerate learning and guide Recommendation 5 for implementation of improved instructional and behavioral/social-emotional supports to accelerate teaching and learning for SwDs.

- **Have high quality inclusive instruction for young children.** Most 3- to 5-year-old children with disabilities learn best when to the greatest extent possible they attend school with their peers without disabilities. Use these settings to provide both language and behavioral models that promote development and help all children learn to be productively engaged with diverse peers. Research confirms that when children with disabilities are included in regular classroom settings; they demonstrate higher levels of social play; are more likely to initiate activities; and show substantial gains in key skills: cognitive skills, motor skills, and self-help skills.<sup>27</sup>
- **Regular educators teach the majority of SwDs in their classrooms at least 80 percent of the**

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<sup>27</sup> *Special Education Task Force Report: Early Learning*. California Department of Education, 2015, <https://www.cde.ca.gov/sp/se/sr/taskforce2015-early.asp>. Accessed 17 July 2024.

**time.** To accelerate the trajectory of achievement, all personnel associated with teaching/learning for general education and special education – from central office, to regions, to schools – collaborate and receive the resources and assistance they need to be effective and for students to be successful. For SwDs to learn in regular classes, teachers differentiate core instruction to accommodate learning differences. Furthermore, providers for RSs that are required to assist SwDs to *benefit from* special education closely collaborate with both regular/special education teachers.

- **Flexible resource model.** The predominant special education resource model is sufficiently flexible to accommodate students with small to more intensive needs. The model allows for SDI taught in regular classrooms. It also allows for separate instruction of small student groups outside regular classrooms (in the school), which may include students from different classrooms based on their common instructional needs.
- **Use SDI** for targeted learning when student needs (e.g., phonics) are no longer covered by grade-specific curriculum.
- **Increased reliance on 79% - 40% time in general education instruction category.** This setting is increasingly used for students primarily educated in separate special education programs to increase their interaction with nondisabled peers. More instruction in general education is meaningless, however, if students are not learning. Importantly, the sum of this work must enable students to progress and prepare them for their postsecondary school life, with transition services and activities designed to promote that end.

#### **Recommendation 5. Provide instructional and behavioral/social-emotional supports to accelerate teaching and learning for SwDs**

Use above Recommendation 4 principles to identify needs for/develop a comprehensive action plan to guide SEA actions and for LEAs schools to localize for purposes including enhancing SDI focusing on improved reading outcomes, including students with dyslexia, and developing strategies to improve graduation rate and decrease dropout and absenteeism rates. With a cross-cutting team evaluate RS effectiveness; ratios for students-to-special educator, assistant, and RS personnel; psychologist role; transition support practices; professional learning; parent engagement; and necessary Special Education Manual and RS Guide revisions. To support this work, address actions related to resource mapping, identifying PL needs, data analysis to monitor trends, and addressing other areas of concern.

#### **SEA Achievement Leadership Team**

Establish a cross-cutting SEA team, including LEA and school representation, to review information in Section IV. Identify areas to include in the action plan referenced below. For this purpose, stress “special education alone cannot fix special education” and instead it requires the collective contributions of all personnel who support teaching/learning. Identify a project manager with direct report to the Secretary of Education to track actions and their status. Have

the group develop a brief report of their work for the Superintendent's approval for action planning.

### Action Planning

Address the following and other areas as needed for action planning.

- Recommendation 4 principles.
- Evidence-based strategies to inform LEAs and schools about relevant activities, such as those that support for [graduation](#), [dropout prevention](#), and [reducing absenteeism](#).
- Integration of SDI principles into practice, particularly those focusing on accelerating reading outcomes, including those for students with [dyslexia](#). (See Chapter 11. Effective Approaches for Teaching Students with Dyslexia.)
- Expansion of the META-PR math initiative beyond fifth grade.
- Examination of high value currently placed on RS. Include areas such as: 1) use of intervention plans; 2) student-to-RS personnel ratios; 3) proportion of time allocated to SDI versus RS; 4) process for determining educationally-related RS need and service minutes; 5) analysis of PEI-required minutes for SDI compared to RS and their impact on achievement outcomes; 6) impact on provisional remedies; and 7) impact on noncompliance. (See Recommendation 2 for the related consideration of school-based evaluations.)
- Assessment of school psychologist roles, their ability to evaluate students without outside contractors, etc.
- Factors related to outsourcing RS, including contracted employees communication with teachers, and participation in eligibility and COMPU meetings. Also, consider associated transportation needs/costs.
- Explore factors affecting secondary transition quality, including administrative support, community work opportunities, and coordination with vocational rehabilitation agencies.
- Factors unrelated to RS that contribute to high provisional remedy volumes, such as procurement delays and limited teletherapy usage.
- Access to and quality of PL, including cross-cutting strategies, school-based collaborative learning, overarching compliance emphasis, and areas of need for general/special educators and assistants.
- Revisions of Special Education Manual and RS Guide, such as evidence-based inclusive instruction, related services criteria, and instructional model criteria.

### SEA Action Plan Template, and LEA/School Plans

Have the SEA develop a template (with LEA feedback) for LEAs and schools to develop their own plans. For SEA action planning, include the following components relevant to each action area –

- Specified areas of SEA, LEA, and school responsibilities with aggressive but reasonable time frames.
- Clear written expectations/guidance for LEAs and schools, including areas requiring revision. Allow for LEAs and school localization of actions within established guidelines to better meet school/student needs.
- Current and needed material/human resources, analysis of gaps, and process for funding determinations at SEA and LEA levels.
- Identification of PL needs and differentiated PL delivery for stakeholders to carry out their expected responsibilities.
- Any new data collection and user-friendly reports relevant to action plan activities.
- Use of outcomes to identify systemwide trends, address disparities, and conduct monitoring as needed.

#### **LEA Leadership Team and Action Plans**

Establish cross-cutting LEA teams similar to the SEA team, including representatives from various sectors. Describe team activities related to: 1) action planning; 2) adapting written guidance; 3) mapping material/human resources, and analyzing gaps for the LEA and schools (based on their feedback); 4) PL for the LEA and to be provided for schools; 5) data analysis to identify LEA common (and unique) issues and for schools to inform local practice; and 6) monitoring activities for overall LEA and individual school issues, as well as process for walkthroughs to observe school activities and follow up with technical assistance.

#### **School Leadership Team and Action Plan**

Have a cross-cutting school-based team structure similar to SEA/LEA teams, and with the school template develop action plans address activities the SEA identified (as the LEA adapted) along with relevant implementation components.

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### **V. ADMINISTRATIVE AND OPERATIONAL SUPPORT FOR TEACHING AND LEARNING**

PRDE faces challenges typical of large educational systems, including organizational silos, frequent leadership changes, and resource allocation issues.

#### **Special Education Department**

The Associate Secretary of Special Education (SAEE) oversees seven units, including specialties like Section 504 and gifted education. While some collaboration exists between academic and special education departments, there are perceived silos hindering effective communication. Frequent changes in leadership positions contribute to poor coordination and strategic planning for special education. Although the Department has a unit called teaching/technical assistance,

it appears that most of the unit's functions concerns process issues (compliance, MiPE, and quality/data management). The department's human resource (HR) unit analyzes yearly needs for special education personnel, and hire/assign special education and assistants. Assistant directors may sometimes request changes due to mismatches.

### **Regional Offices of Education**

PRDE's seven regional offices hire school special education associated personnel based on central HR's yearly analysis of need. Regional staff members recruit and hire personnel, such as special education teachers, assistants, psychologists, etc., and assign them to schools. HR staff also monitor special education enrollment changes during the year to identify any necessary assignment changes.

### **Special Education Service Centers (CSEEs)**

CSEEs manage registration and special education evaluations, coordinate outside provider therapies, and support the management of state-filed administrative complaints. Center personnel involved with special education have limited time to provide school-based instructional support. For example, the few available facilitators want to support instruction but must prioritize time to address compliance problems. Relatively low salary levels make it difficult to fill facilitator vacancies.

### **Support for School-based Special Education**

Assistant directors receive training related to compliance but their lack of authority to select staff impacts their ability to support special education effectively. US districts with which we have experience allow principals to select their full-time school-based personnel, including special educators and assistants. Selections are then forwarded to HR to initiate hiring.

### **Recommendation 6. Promote SEA collaboration, enhance SAE office operations, increase LEA support to schools, and authorize school director selection of full-time staff.**

Various administrative and operational changes are needed to better support school-based special education activities. These include increased collaboration at the SEA level, improved SEA and LEA school support, optimizing resource allocation to meet student needs, and empowering school directors to make selections for full time school personnel. These actions aim to not only streamline administrative processes but also to enhance educational outcomes through targeted support and inclusive practices.

### **SEA Interdepartmental Collaboration**

Establish effective collaboration mechanisms between general education and special education departments to maximize resources and support initiatives beneficial to SwDs, such as improving regular classroom instruction for all students. One specific approach would have one or more individuals with curricular accommodations/differentiated instruction expertise embed in the curriculum department while maintaining a direct report to the special education department.

This approach models and supports inclusive practices within academic frameworks. In addition, have the SEA institutionalize protocol and practices to minimize disruptions caused by administrative changes. Operational practice continuity promotes stability and effective implementation of educational initiatives despite leadership turnovers.

### Special Education Department

Enhance the Special Education Department's operational efficiency to better support schools and regions. Evaluate LAUSD's organizational structure as one approach to restructure the SAE's office. (*See Exhibit 5a. LAUSD Special Education Division Directors and Oversight.*) Develop a template to facilitate LEA annual audit of school-based personnel and analysis of gaps between resources and needs. In addition, identify areas needing additional support from the LEA and/or special education department.

In addition, address the following issues –

- **LEA facilitators.** With LEA/facilitator feedback define and document facilitators' current and anticipated roles considering changes due to decentralization; and consider the number and training needed for them to carry out their expected responsibilities that include school support in addition to registration and evaluation coordination, etc. Establish a salary structure to increase the facilitator applicant pool with qualified individuals to maintain required staffing levels and minimize support disruptions.
- **School director selection of staff.** Take steps necessary to authorize school directors/principals to select full time special education person with next steps expedited through the hiring process. Regularly review staffing ratios to ensure sufficient support for SwDs in schools, collaborating with SEA and LEA personnel.
- **Personnel allocation.** With LEA and school director feedback, develop a formula for assessing LEA and school-based personnel allocations to meet their evolving responsibilities associated with decentralization. (*See Section VII. Decentralization Implications for Special Education*) Ensure that personnel who support SwDs are employed in appropriate numbers and are available to meet student needs. On a regular basis with SEA and LEA personnel review the staffing ratios summarized in this report. (*See report data associated with Section IV.C.2.*) NOTE: Relatively low or high student-to-personnel ratios do not necessarily mean that any given area is staffed inappropriately; however, outlying ratios compared to districts surveyed by the Council should prompt further review.

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## VI. SPECIAL EDUCATION ACCOUNTABILITY MEASURES

This section examines special education accountability measures, focusing on federal results-driven accountability (RDA), dispute resolution processes, and Rosa Lydia Vélez (RLV)

Considerations. The first three are addressed below, followed by associated recommendations. RLV Considerations follows thereafter with associated recommendations. It is noteworthy that decentralization information we reviewed did not address these issues.

### Federal Results Driven Accountability

Since 2014, the U.S. Department of Education's Office of Special Education Programs (OSEP) has used an RDA framework to evaluate SEA compliance and performance under IDEA. Of 60 entities OSEP assessed for the 2023 FY, (2021-2022 data), 23 met requirements, 35 needed assistance, and 2 needed intervention. OSEP assigned PRDE a "needs assistance" rating based on a score of 70.63 percent. This rate combined results for performance (55.56%) and compliance (85.71%).

PRDE showed strengths in timely/accurate state-reported data submissions and nearly all due process hearing decisions issued on time (99.33%). However, the report reflected no timely state complaint decisions (0.00%). Student achievement earned the lowest performance scores.

### Dispute Resolution Processes

Center for Appropriate Dispute Resolution in Special Education (CADRE) data for 2021-2022 (latest available) included Puerto Rico and US for SEA complaints, mediation, and due process (DP) hearing requests.<sup>28</sup> The data below is based on 10,000 SwDs –

- Fewer complaints for Puerto Rico (4.4 of SwDs) compared to Hawaii (12.2) and the US (8.4).
- Puerto Rico had fewer complaint reports (2.6) and noncompliance findings (0.3) than Hawaii (8.6 and 1.5, respectively) and the US (5.3 and 3.0, respectively). None of the PRDE reports were issued in a timely manner, contrasting with Hawaii (8.6) and US (4.6).

### Mediation

Puerto Rico had a higher number of mediation requests (34) per 10,000 SwDs than the US (14.7). The island also held more mediations (28.6) and agreements (23) compared to the US (7.6 and 3.9, respectively). However, all of Puerto Rico's requests were related to DP hearing requests, unlike the US with 3.5 mediations and 2.4 agreements unrelated to requests.

### DP Hearing Requests

The following events per 10,000 SwDs were reported for Puerto Rico compared to the US –

- Puerto Rico had a significantly higher number of DP hearing requests (117) than the US (40.1)
- Puerto Rico had more resolution meetings with agreements (62) than the US (34).
- Puerto Rico had more timely DP hearing completions (13.6) than the US (0.5).

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<sup>28</sup> National and State DR Data Dashboard | CADRE. [www.cadreworks.org/national-state-dr-data-dashboard](http://www.cadreworks.org/national-state-dr-data-dashboard). Accessed 17 July 2024.

The island's DP hearing request number was exceeded only by New York City and Washington D.C., which have had high numbers for many years. PRDE's DP hearing data base is extensive but lacks separate issue fields. Instead, they are written in a text box. Based on a word search of the text, service assistants/nurses were named 511 times and therapy named 353 times. By comparison, the term "education" appeared only 243 times.

### **Puerto Rico and PRDE Legal Special Education Administration**

Puerto Rico's legal administration of special education involves the Department of Justice (DOJ). There are concerns about DOJ's willingness/expertise to handle special education cases, often relying on private contractors for important hearings. PRDE also has two legal and compliance structures. The Legal Division's Special Education Legal Affairs unit is perceived as understaffed with personnel insufficiently trained for special education matters. This has negatively impacted development of a comprehensive strategy for the Department's extensive legal issues.

### **Implications for Decentralization**

Information was unavailable to describe how decentralization would impact special education accountability measures, if at all. Interviewees believed that regional facilitators would continue to address administrative complaints filed with DEPR and manage the conciliation process associated with DP hearing requests. Some shared a goal of establishing a legal affairs representative in each region, expanding their current presence in three regions and reporting to both the legal affairs unit and regional superintendent. It was not clear if processes have been established for handling administrative complaints with training, etc. There was a desire for regions to have more individuals knowledgeable about special education available to proactively address potential complaints and to resolve them expeditiously

### **Recommendation 7. Increase Awareness of and Improve PRDE's Results Driven Accountability (RDA) Federal Outcomes**

Use RDA indicators for PRDE to 1) measure/improve dispute resolution effectiveness, and 2) communicate the importance and relationship of SwD achievement results to federal accountability. As part of this process, increase awareness and use of mediation for dispute resolution.

### **RDA Indicators and Measurements**

Use the PRDE website and regular communication channels to explain RDA outcome measures and PRDE results. Post outcomes by LEAs and schools for relevant indicators to show progress, especially those overlapping with Rosa Lydia Vélez stipulations, such as timely evaluations. Have the SEA for LEAs, and LEAs for schools take actions designed to improve SwD achievement, particularly for areas receiving lowest outcome scores.

### State Administrative Complaints

Hire a consultant experienced in state administrative complaints to review PRDE's processes for timeliness and outcome assessment. Disaggregate complaint data by LEA and share it with each, including fields for complaint issues and resolutions. Have LEAs review data to identify trends requiring training and other measures to reduce noncompliance. Aggregate LEA results to identify training needs and follow-up actions at the island level. Have LEAs do the same for schools, acting across schools with common issues and for individual schools having unique needs.

### Mediation

Investigate the mediation process to determine its availability for matters unrelated to DP hearing requests and the extent of parent awareness. Have the SEA support mediation at the LEA level and with schools using trained neutral personnel. Have the SEA collect and share data with LEAs and schools showing mediation use, including success rates. Initiate [State-Sponsored IEP Facilitation](#) at the LEA and school levels to increase consensus and reduce the need for further dispute resolution processes.

### Due Process Hearings

Hire a consultant to review DPRE's administration of DP hearings to maximize successful mediation outside of a DP hearing request with a goal of reducing DP hearing requests. Establish computer fields for analyzing DP hearing requests and disaggregate data by LEA/school, including relevant data for LEA/school use. Have LEAs review data to identify trends requiring training and other measures to reduce parent reliance on DP hearing requests to resolve disputes. Have the SEA aggregate LEA results to identify training needs and follow-up action at the island level. In addition, critically review PRDE's current capacity to litigate due process hearings, including appeals to Federal court and the involvement of DOJ for this purpose. To improve PRDE outcomes, ensure PRDE attorneys are well trained and have the capacity to carry out any increased expectations. To the extent possible, coordinate training with DOJ to increase the agency's involvement. As discussed below in Recommendation 9, relating to RLV activities, consider the legal resources and expertise/capacity needed to succeed.

### Implications for Decentralization

Have each LEA superintendent form a cross-cutting team with data available to identify school-based compliance patterns and provide targeted intervention/support for issues most likely to require dispute resolutions. Team members should represent regular/special educators and RS personnel. Have personnel with monitoring roles enable LEA teams to be familiar with school needs and help develop creative but realistic suggestions for meeting them. Consider the following actions for LEAs to improve dispute resolution by having –

- Sufficient and knowledgeable personnel available to support problem-solving matters outside school control; timely respond to school requests for assistance; provide training to

address areas of concern; etc.

- Mechanisms to quickly procure material/human resources that meet student needs to reduce dispute resolution demands.
- Personnel to investigate/suggest resolutions to administrative complaints; and to support resolution of and participation in DP hearings.
- Strengthened SEA/LEA Compliance Teams that have regular interaction with special education counsel to understand the rules and limitations of eligibility, and that they have the capacity to support COMPUs and schools.

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### Rosa Lydia Vélez Considerations

The special education program in Puerto Rico presents some of the most significant challenges in the United States. The Rosa Lydia Vélez case, which was decided in 2002, imposes 87 stipulations or tasks on Puerto Rico's Department of Education to provide services to students with disabilities, which exacerbate the conditions and timeframes for providing services.

Final Report Commission for the Transformation of the Special Education Program Report to the Governor of Puerto Rico, Honorable Alejandro J. Garcia Padilla (December 28, 2016)

Based on information we collected during our review, the Commission findings remain unchanged. The RLV case has undeniably shaped the landscape of Puerto Rico special education, bringing both progress and significant challenges. The current list of 77 stipulations, most with numerous criteria including by numerous variables, is too long to include in the body of this report. (*See Appendix B for a complete stipulation list.*) The multitude of human activities and funds expended for compliance growth is incomparable and has come with a cost to students.

Our two on-site visits with central, regional, and school personnel included many conversations about how RLV compliance-related activities have interrupted their focus on every day SwD teaching/learning and the ability to plan and implement improvement strategies. They have also reduced PL focus on instruction to address RLV-related compliance requirements and limited opportunities for effective communication with parents. At the same time, parents of children with disabilities and their advocates are frustrated by delays in the provision of services. When asked about PRDE's strategy to comply with RLV, the response was simply to comply with the stipulations at the 100% requirement. Interviewees perceive that personnel shortages and other challenges make this goal impossible to meet. **Decentralization will not improve RLV results absent addressing its underlying construct.**

Council SST members with extensive knowledge of, and experience with, federal/state monitoring, including a long-time Office for Civil Rights (OCR) upper management veteran, are

unaware of any similar class action case (state or federal) having requirements as extensive as RLV's stipulations. One coming close involved the Los Angeles Unified School District (LAUSD) 1996 federal class action Chandra Smith litigation. Many years after little progress, the district hired a highly regarded consultant [a former US Office of Special Education Programs (OSEP) director] who helped the parties agree that its Consent Decree terms were unworkable and could never be met with compliance. With the consultant's assistance, in 2003 the parties negotiated effective/workable terms for a Modified Consent Decree (MCD). In 2019 the MCD terminated. The Independent Monitor's final 2019 report included his thought-provoking assessment of the [MCD's Successes, Challenges, and Lessons Learned](#). One lesson applicable to RLV's many timeline-related stipulations was the following –

After 16 years of third-party federal court oversight, one of the biggest failures of the MCD has been the emphasis on the documentation of services, which has overshadowed the intent of the law to ensure students receive quality services that result in educational benefit and access to the LRE. Substantial compliance will be achieved only when the system can provide quality services that benefit students while holding the District accountable to these obligations. The current model places a high value on compliance and quantity of services; *this needs to shift to emphasize service quality and educational benefit. (Emphasis added.)*

RLV stipulations demand meticulous data tracking with 115 data tables. RLV detailed requirements, unique compared to federal standards, are unrelated to enhancing the quality of evaluation content, eligibility decisions, or specially designed instruction. Instead, they consume significant resources to address process and distract from core educational activities.

The following stipulation requirements exemplify demands on central, region, and school personnel.

- **Eleven stipulations have timeliness criteria** that the PRDE 2022-23 monitoring report (PRDE report) requiring 115 data tables with data disaggregated by many variables. The granular data requirements are puzzling and unlike any we have seen required by OCR, OSEP, or SEAs; or in association with court litigation.
- **Ten RS related stipulations** measure timeliness, compensation awards, transportation interruption, and provisional relief. One PRDE monitoring report with compliance rates for 22 RS areas had data revealing unusually high ratios of services per student. PEIs required a total of 532,077 RSs for 103,018 SwDs (or 5.2 RS per student). Stipulations did not require any data concerning special education other than those broadly covered by such topics as timely COMPU meetings.
- **Secondary transition stipulations** require extensive reporting with one qualitative assessment. These requirements divert time and resources from development activities such as collaborating with other agencies to develop community-based work sites.

- **Ten transportation stipulations** with 39 different data tables requiring extensive collection and reporting have taken time away from improving difficult issues such as transporting students to RS appointments outside schools, routing to far or difficult locations, monitoring vendors, modifying routes for students changing schools, etc. While electronic platforms have improved routing and their management, new routes require new contracts, and central office approval/funding. These issues are complicated by the large number of SwDs transported to receive RSs. A 2022-23 PRDE monitoring report reflected 6,621 SwDs transported to various locations on different schedules ranging from one to five times weekly.
- **Provisional Remedy (PR).** For RSs or supplementary services not started within 30 days CSEEs have another 20 days to either arrange for RS at or near the ORE or give parents 20 days to select a provider from a list. Parents have 90 days to coordinate a contract with the approved service. The large number of RSs present service challenges that result in PR relief.
- **MiPE System.** Stipulation analysis relies heavily on the special education computer platform, MiPE, which is data intensive. Concerns include annual changes to MiPE not consistently communicated, internet service failures interfering with but not excusing late data input, and the volume of data entry/training demands that take time away from teaching and therapy.
- **Production Resources.** PRDE personnel compile a minimum of 80 reports monthly, totaling over 1,000 reports yearly. Professional services for production increased significantly over the years. For the 2023-24 SY through February 2024, the 16,685 hours of production time was roughly equivalent to 20.9 work years.
- **Corroboration.** The RLV Monitor’s process for corroborating PRDE data involves complex data sampling techniques similar to high-level research. (See [Types of Sampling for the Corroboration Plan.](#)) The process is stringent, as exemplified by a Monitor’s report that prolonged monitoring by three years due to missing files for several students who three years prior had graduated or were no longer eligible for special education.
- **Fines** are assessed at \$11,000 per day for noncompliance, amounting to over \$8 million for just two years. A fund created with these fees can be used for class member projects and programs. Examples include the Steering Committee, the Legal Services Corporation (which offers legal services to Educación Especial (EE) parents free of charge), and grants to nonprofit organizations that provide parent training and advocacy services, including press conferences and social media that include RLV noncompliance examples.

### **Recommendation 9. Modify the Rosa Lydia Vélez (RLV) agreement.**

Based on our review of the voluminous documents/data we received and feedback from interviewees, we conclude that the current RLV compliance structure is untenable, has terms that neither PRDE nor any US school district could ever meet, and implementation efforts over

many years has come at great student cost. LAUSD's Chandra Smith Modified Consent Decree presents a model for initiating conversations with RLV plaintiffs.

As part of this process, we strongly recommend that PRDE hire a highly regarded consultant likely to have the respect of RLV parties to facilitate these conversations. We recommend also that PRDE, perhaps with RLV plaintiffs, sponsor a major symposium with speakers who present what a future for Puerto Rico SwDs could look like with MTSS implementation, including evidence-based core instruction, increasingly intensive interventions, SDI (along with benefiting RSs), and meaningful parent engagement. U.S. Department of Education personnel would be a valuable contributor of suggestions for this purpose. Speakers can share ways RLV activities have supported educational progress but need to change to better improve the quality of teaching/learning.

To illustrate an alternative approach to RLV's current compliance structure, Chandra Smith's MCD primary terms are summarized with recommended considerations. Neither LAUSD's Consent Decree nor its MCD had terms for fees related to noncompliance. We recommend that RLV conversations either reconsider fines or require their use to directly target improved evidence-based instruction. The MCD summary has two parts. The first describes the MCD's planning process and outcomes most relevant to Puerto Rico. (For example, MCD outcomes for racial/ethnic disproportionality are excluded.) The second relates to a framework showing special education has no systemic problems preventing "substantial compliance" with applicable federal/state special education laws/regulations. The Council of the Great City Schools has resources available to further support this process.

#### **Modified Consent Decree (MCD) Model Terms**

Consider a streamlined and effective monitoring system with clear standards/accountability for compliance. Provide necessary resources/training to build and maintain system capacity beyond the current compliance structure.

- Prepare an annual plan with benchmarks, action steps, responsible staff, and evidence of completion.
- Ensure SwDs participate in statewide assessments and develop outcome measures for performance improvements.
- Increase SwDs graduating with diplomas.
- Reduce long-term suspensions.
- Increase inclusion of SwDs in general education settings.
- Comply with transition plan requirements.
- Set/meet specific targets for timely evaluation completion.
- Improve response times to administrative complaints.
- Analyze/address issues leading to due process filings to improve service quality/reduce

disputes.

- Increase reliance on informal dispute resolution processes.
- Decrease personnel shortage disparities between qualified regular and special educators.
- Ensure appropriate behavioral strategies are considered.

### **Substantial Compliance Framework**

Show no systemic problems prevent substantial compliance with applicable federal/state special education laws/regulations as demonstrated by –

- Effective monitoring of compliance and capacity to correct noncompliance.
- Demonstrated initiative and engaged leadership.
- Commitment of resources necessary to build/maintain system capacity beyond the MCD conclusion.

For this purpose, establish an operating framework with the following components –

- Data system capable of monitoring compliance and performance indicators at district/school levels.
- Monitoring process includes enforcement of school-level compliance.
- Efficient system for receiving/resolving complaints, and mediating disputes including those unrelated to DP hearing requests.
- Effective policies/procedures to quickly identify/resolve IEP disputes.
- Administrative capacity to enforce compliance and hold personnel accountable.

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## **VII. Decentralization Implications for Special Education**

Puerto Rico has embarked on a significant decentralization initiative that includes an aim to enhance the efficiency, effectiveness, and relevance of its special education services. This section outlines key findings and implications of this initiative, drawing on department documents, interviewee feedback, and the 2023 Initiative for Decentralization of Education and Autonomy of Regions (IDEAR) report. The IDEAR report highlights the limitations imposed by PRDE's centralized special education structure and sets the stage for a transformative approach. By empowering school directors, improving communication, providing adequate training, and addressing procurement and budget management challenges, the initiative seeks to create more efficient/responsive support for SwDs. The pilot was designed to operate on a manageable scale to facilitate quick learning and insights for full deployment actions.

### **Pilot Program Overview and General Feedback**

During the 2023-24 school year, PRDE launched decentralization pilots in three distinct regions: the Mountain Area (2 municipalities), Western/Urban Area (3 municipalities), and South Zone (3

municipalities) chosen to reflect diverse environments (urban and rural areas with varying academic performances). Overall, interviewees were optimistic about decentralization's potential benefits. They believed that empowering school staff could improve SwD teaching/learning and enhance compliance. Community representatives, including parents, appreciated the anticipated shift to school-based services, which would eliminate travel to regional offices for various needs.

### Noteworthy Interviewee Concerns

There was a lack of universal understanding of special education processes shifting to schools and those remaining at regional offices. For example, while school-based registration was clear, we sought further clarification and received different information for evaluation and eligibility decisions locations. There were concerns about insufficient communication with or input from school staff expected to implement school-based processes. Additional concerns applied to the perceived fragmented nature of the pilot process, and potential for increased workloads and noncompliance. Interviewees expressed clear needs for more training to LEAs, school directors, and staff to manage special education and locally distributed funds effectively. LEA Advisory Committee (CAL) members expressed a desire for more information about the decentralization process, CAL role clarification, and adequate resources to carry out CAL responsibilities. They wanted greater involvement and better training, wanting their suggestions to be heard and considered.

### Anticipated Decentralization Impact

There are high expectations that decentralization designs will address various special education problems. Only a few of these are specifically included in decentralization descriptions provided for our review.

- **Special Education Department's separate operation** from other departments, especially those overseeing general education. As most SwDs receive instruction within regular classes, central office personnel need to collaborate/send unified messages to schools.
- **Growing proportion of Puerto Rico SwDs.** Increases from 2012 (19%) to 2023-24 (37%) places great pressure on the system, demanding more resources, and making it difficult to meet individual student needs and in a timely manner.
- **Current centralized guidance** does not account for LEAs' and schools' diverse needs.
- **Centralized rigid processes** remove school personnel from important decisions and requires parents to travel longer distances to participate.
- **Off-site related service delivery** has caused service delays, reduced collaboration between special educators and RS providers, and large RLV fines.
- **Region hiring control** prevents school directors from selecting best full-time staff for their schools.

- **Related services eligibility decisions** lead to inflated student needs and associated problems, e.g., large private service billings, off-site services, related transportation requirements, etc.
- **Inefficient procurement practices** lead to excessive response times with numerous approval steps and material/service delays.
- **Centralized budget planning and management** restrict ability of regions/schools to address community needs.
- **Centralized audit process** for special educator/associated personnel allocation is not based on student needs.

**Recommendation 10. Expand decentralization activities to address barriers to instruction and services necessary to accelerate SwDs achievement/wellbeing.**

Decentralization plans that address SEA, LEA, and school responsibilities alone will not address circumstances interfering with SwD achievement and success. Along with their new roles the SEA must attend to the content of work to guide their activities. Otherwise, decentralization will likely reflect form over substance. We recommend action planning related to changes described below to improve the administration/operation of special education and SwD teaching/learning. For each action area, consider: 1) SEA written guidance required with LEA/school feedback; 2) personnel resources for LEA implementation and school support/monitoring; and school implementation; 3) professional learning needed to carry out new guidance; and 4) LEA/school proactive involvement/feedback loops. This approach builds on current plans to empower local leadership while addressing systemic issues exacerbated by RLV stipulations and other related factors. Following these recommendations, we present a matrix model for MTSS that can be applied to each broad recommendation area to map SEA, LEA, and school responsibilities.

**Empower Local Leadership and Challenge Pervasive Compliance Mindsets**

As a foundation for change, encourage bold/courageous leadership by LEA superintendents, Local Advisory Councils (CAL), school boards, and school directors. This movement is needed to challenge/transform mindsets engaged with compliance minutiae and dominance of related services over the achievement of substantive educational outcomes.

**Address Systemic Issues with Targeted Action Plans**

Consider the suggestions below to improve LEA and school-based special education administration and operation and teaching/learning for SwDs.

- **Amend SEA policies** to authorize school personnel to review parent registration requests in line with IDEA and SAEE-03b's form contents. (Prior Notification for Evaluation and Therapies) This change would allow school personnel to assess requests along with supporting information to consider suspicions of special education need and communicate procedural safeguards to parents.

- **Develop/use protocols** to guide high quality assessments, evaluation reports, eligibility results, and COMPU decision-making. Ensure protocols allow for careful assessment of PEI minutes, duration, intensity, and location.
- **Require PL** consistent with PRDE content for private evaluation and related services personnel, modifying contractual provisions as necessary.
- **Allocate region facilitators** based on school and SwD characteristics so they are able to provide sufficient technical assistance, training, and monitoring,
- **Expedite activities necessary to support school-based evaluations** (in addition to registration and eligibility decisions planned.) Use a stakeholder group to assess personnel needs. Provide the group average private per person and transportation costs to assess savings that can help support recruitment, incentives, salary level changes, training, etc.
- **Authorize schools to directly procure materials/services** under specified circumstances. Implement a model similar to the Chicago Public Schools [model](#) that allows principals to sign contracts up to \$10,000 within certain parameters.
- **Enable LEAs/schools to manage budgets** effectively with allocations sufficient and stable through the school year to meet SwD needs. Apply savings from reduced reliance on private providers/transportation costs to help support LEA/school activities.
- **Improve special education audit processes.** Consider relevant models used by large CGCS member districts, such as [Chicago Public Schools](#) and the [School District of Philadelphia](#). Their processes for developing school-based budgets and handling school-specific needs provide valuable insights based on their many years of lessons learned.

**Matrix Example Showing Action Areas by SEA, LEA, and Schools**

The following matrix sample, which is for MTSS, shows how this and other CGCS recommended actions could be mapped for SEA, LEA, and school differentiation. Mapping could be carried out as a group activity.

	SEA	LEA	School
<b>MTSS</b>			
<b>Leadership Team</b>	SEA leadership team	LEA leadership team school	Leadership team
<b>Framework</b>	Develop w/LEA-school input/feedback	Localizes within SEA guidance	Localizes for school within guidance
<b>Action Plan Template</b>	Draft w/LEA-school input; for LEA/school use	Adapts template within SEA guidelines	Adapts template within guidelines
<b>Action Planning</b>	Plan for SEA	Plan for LEA	Plan for school
<b>Written Expectations</b>	Establish expectations for MTSS core areas	Localizes expectations within guidance	Localizes expectations within guidance
<b>Catalog</b>	Sponsored evidence-based core/increasingly intensive materials	With schools select from catalog LEA options to facilitate training	Selects from LEA options

**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**

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	SEA	LEA	School
<b>Human/Material Resource Gaps</b>	Drafts template for analysis; identifies SEA resource gaps for budget development	Completes resource gap analysis for LEA; aggregates school gaps	Complete human /material resource gap analysis and shares with LEA
<b>Allocation of Funds</b>	Based on LEA resource gap analysis & available funding; trains on use of braided funding	Allocates funding for LEA and equitably to schools based on gap analyses; considers braided funding	Plans budget based on allocated funds; considers braided funding
<b>Professional Learning and Information Sharing</b>	Based on expectations develops PL for LEA and community information; supports LEA training	Identifies PL needs based on SEA expectations; shares with SEA; gives PL to LEA staff, and schools; shares info w/community	Identifies PL needs per SEA/LEA expectations; communicates to LEA; coordinates school PL; shares info w/parents, etc.
<b>Data Collection/Analysis</b>	Further develops data capability based on MTSS requirements; trains LEAs; support school training	For LEA and direction to schools	Coordinates training for appropriate staff
<b>Monitoring</b>	Drafts school walkthrough template (with LEA-school feedback); conducts other monitoring as necessary; highlights exemplary schools	Conducts school walkthroughs with cross-cutting team; gives school feedback; identifies exemplary schools and practices; shares with SEA	Conducts walkthroughs; addresses LEA findings; informs LEA about actions taken; shares with LEA exemplary school practices
<b>Website</b>	Develops MTSS webpage; continuously updates; highlights exemplary schools and practices	Introduce to LEA staff & schools	Introduce to school staff;
<b>Feedback Loops</b>	Establishes feedback loop process for/from LEA, schools, and community	Continuous feedback from schools/community and to SEA	Continuous feedback from school/community to LEA

## DISCUSSION AND RECOMMENDATIONS

This chapter reviews PRDE processes/practices that impact teaching/learning for all students, and especially for students with disabilities (SwDs). The Council SST's findings and related recommendations are organized by seven areas, with embedded decentralization implications.

- I. MTSS for Accelerating Student Achievement and Well-being
- II. Disability Demographics and Eligibility
- III. Data Associated with SwD Achievement
- IV. Support for SwD Achievement and Well-being
- V. Administrative and Operational Support for SwD Teaching/Learning
- VI. Special Education Accountability Measures
- VII. Decentralization Implications for Special Education

### I. MTSS FOR ACCELERATING STUDENT ACHIEVEMENT AND WELL-BEING

In 2012, CGCS published a Multi-Tiered System of Supports (MTSS) [white paper](#) to inform its membership about foundational framework teaching/learning. The framework is designed to improve educational outcomes for *all* students by supporting core curricular instruction and the use of interventions for students who need instructional or behavioral interventions or enrichments to flourish. As the white paper describes, MTSS has significant implications for the identification of students suspected of needing special education and the process for screening evaluation referrals by school personnel.

Factors other than a disability may account for students having difficulty in language and literacy (as well as numeracy). Such factors may include the nature of a student's educational opportunity, as well as teaching practices or assessment tools that are insensitive to cultural or linguistic differences, for example. Other circumstances might include family circumstances, e.g., children who grow up without access to nutritious food, who live in chaotic households, and who have no written materials in the house. When implemented with fidelity, however, MTSS can help ensure that these factors are not blocking the way for students as staff members consider making a special education referral or determining eligibility for special education services.

A successful curriculum incorporates research-based strategies into everyday aspects of the educational process. It provides a roadmap by which teachers know what to teach, how to teach it, and how they will know if the students have learned what was taught. A well-planned and implemented curriculum can have a significant impact on student progress and the quality of teaching and learning. While the PRDE frameworks for Spanish literacy, Mathematics, and English contain a plethora of information related to research-based techniques, they lack guidance that

operationalizes the curriculum and that would help teachers know what to teach and how to teach it, as well as how they will know if students have learned what was taught. The frameworks provide a laundry list of approaches, techniques, and strategies with little to no guidance as to what they actually look like in everyday practice.

Like the CGCS white paper, the 2016 Report of the Puerto Rico Commission for the Transformation of Special Education affirmed that general education needs change to transform special education.

In order to strengthen education for all students, we propose that the DE implement two pedagogical practices: 1) differentiated instruction and 2) Response to Intervention. In addition, it should implement positive behavioral supports and conduct a functional behavioral assessment for students with behavioral challenges, whether they have a disability or not. Unfortunately, it seems that the only way a student with difficulties in school can get help is through special education. Having poor academic achievement does not imply having a disability. The education system needs to attend to the difficulties of all students in an opportune way. Thus, the transformation of special education requires changes to general education. (p. 149)

To date, the practices proposed in that report have not yet been addressed systemically and special education is still viewed as the major avenue of support for struggling learners. Much more needs to be done in order to stem the flow of students being identified as having a disability when in fact targeted, high quality instruction is needed.

During our discussions with PRDE central, regional, and school-based staff the concept of MTSS did not appear to be recognized but interviewees were familiar with models for response to intervention (RTI) and positive behavior intervention and supports (PBIS). Although RTI and PBIS are components of MTSS, their isolated or combined use do not substitute for MTSS's overall value and benefits to students. Furthermore, we heard mostly compliance-related issues and very little was articulated about teaching/learning in general, or the role it plays with special education.

### **PBIS**

Based on research that evolved in the early 1980s, PBIS offered a positive behavior intervention and strategies approach to address students' behavioral-social/emotional challenges. Following a federal grant in the late 1990s, the [national PBIS Center](#) began to disseminate information about PBIS and provide technical assistance to SEAs. This activity helped them to adopt and implement a continuum of evidence-based interventions to achieve important academic and behavioral outcomes for all students.

### **RTI**

During the early 1980s the use of a team approach to identify intervention needs in the form of supplementary instruction for students falling behind in general education also evolved. This also became a primary approach to address special education racial/ethnic disproportionality by improving students' general education academic outcomes and reducing their need for special education. IDEA's 2004 amendment approved the concept of RTI, without naming the approach by name, as an authorized alternative to the "discrepancy model" for identifying students with a specific learning disability (SLD). Since then, some states have established rules that require RTI usage as part of disability areas in addition to SLD. See, e.g., the Louisiana Department of Education's [Bulletin 1508 - Pupil Appraisal Handbook](#).

### A. MTSS Framework and Essential Components

MTSS built on RTI and PBIS evidence and lessons and focused on students' academic, behavior and social/emotional needs. Educators have long been aware that these issues are generally intertwined and need to be addressed holistically. Having separate systems/teams for each approach has allowed issues and needs to be overlooked or addressed separately, and without regard for how academic learning and behavior impact each other. As a result, the MTSS framework evolved to be a whole-child and school-wide approach to meet each students' learning needs and to support all areas of their development. The Every Student Succeeds Act (ESSA) at section 8101(33) embedded MTSS in federal law as a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students' needs, with regular observation to facilitate data based instructional decision-making.

An important core MTSS principle is that student achievement will not improve without a foundation of strong evidence-based core instruction with differentiated approaches and interventions available for each student. Without this strong teaching/learning foundation, too many students need intensive interventions. This neglect has not only put pressure on too few available personnel but is often too late and too little for students to catch up with peers who continue to achieve. Furthermore, this failed paradigm has enabled large numbers of students to receive special education because their low academic performance and behavioral issues were never addressed.

As described in CGCS's [white paper](#), the essential MTSS framework components include -

- Well-defined district- and school-based leadership and organizational structure;
- District policies and practices that align with and support a multi-tiered system;
- Technology sufficient to support instructional decision making and implementation of instruction (e.g., Universal Design for Learning or UDL);
- Robust and valid core or Tier I instruction delivered to all students;
- Assessment of expected rates of progress;
- The use of three Tiers (I, II, and III) of increasingly intensive (time and focus of instruction)

instructional supports and strategies;

- Professional development to ensure the MTSS framework is implemented as intended;
- An evaluation process that monitors both implementation and outcomes; and
- The engagement of parents and caregivers.

The MTSS framework functions well when schools receive support and have systems in place to identify the needs of all students, and monitor/evaluate their progress throughout the school year, using multiple data measures (e.g., curriculum-based assessments, attendance, suspensions, grades, numbers of office referrals, etc.). Teachers differentiate instruction, and processes are in place for the delivery of increasingly intensive interventions. Teachers and leaders regularly review/monitor student progress to determine trends and identify instructional adjustments needed for remediation, intervention, and acceleration.

When a student fails to make adequate progress after the delivery of robust core (Tier I) instruction, then supplemental instructional interventions are put in place and their results are tracked. Without this monitoring system in place, it is unlikely that schools will have the documentation needed to determine whether underachievement is due to ineffective core instruction/interventions or something else that might trigger a special education referral. Nevertheless, when teachers and parents observe students who are struggling to learn and behave appropriately, there is a predictable desire to seek legally protected special education services. Although some misconceive Tier 3 as the “special education” tier, this level of support is intended for use by any student who needs intensive interventions.<sup>29</sup>

## **B. PRDE’s Approach to Core Curriculum and Tiered Support**

In response to our request for any written guidance for MTSS, RTI, and/or PBIS, PRDE responded that it does not have a formal implementation guide. Instead, the Council SST received some information in response to written questions, an RTI math initiative document, and two sets of materials related to PBIS. Also, the team reviewed various curriculum documents, including curriculum frameworks for Spanish literacy, Mathematics, and English. Following is a summary of this information along with interviewee feedback we received.

### **1. Spanish Core Curriculum and Tiered Supports**

A successful curriculum incorporates research-based strategies into everyday aspects of the educational process. It provides a roadmap by which teachers know what to teach, how to teach it, and how they will know if the students have learned what was taught. The frameworks provide

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<sup>29</sup> See Massachusetts Department of Education [document](#), *Understanding the Relationship between MTSS and Special Education*, page 2.

a laundry list of approaches, techniques, and strategies with little to no guidance as to what they actually look like in everyday practice.

PRDE shared 29 files for curricular maps, curriculum alignment tools (grades 1-12), pacing calendars (grades K-12), and phonemic skills. In particular, *The Spanish Curriculum Guide* has a great deal of information, but it is not teacher-friendly or practical. The pacing guides show the topic and timeframe (number of weeks) for each unit, but do not include materials to be used, essential questions, content, etc. The Curriculum Framework States that among the goals of the program are:

- Promote the application of the RTI model to help students with high-risk indicators;
- Promote data-driven decision making during the teaching process; and
- Support the strengthening of academic interventions offered in the schools.

There was little to no evidence that data-driven decision making was happening or that any aspects of RTI for literacy have begun. In fact, one interviewee said, “We don’t do RTI in Puerto Rico.”

In addition, PRDE shared that it has invested \$15 million to help develop weekly plans for teachers and for a [Santillana](#) digital library with materials to support the core curriculum. The training provided for educators to roll out the program will be critical, along with a clear set of instructional practices to meet the literacy instructional needs of at least 80% of the students.

### Interviewee Feedback

Interviewees provided the following feedback regarding PRDE’s core curriculum and its school-based implementation.

- **Core Curriculum.** Between 2014 and 2016 PRDE reviewed its curriculum so that it would conform with its peer review guide and core competencies. Central office personnel share with school personnel curriculum maps with pacing expectations at the beginning of the school year. Weekly lessons are shared with teachers, although interviewees expressed concern that they must follow schedules even when students have not mastered the material. Students are given pre- and post-tests with a desire for them to achieve a 77 percent successful rate. Overall, Tier 1 instruction seems to lack a standard reading or mathematics curriculum with aligned materials for teachers’ use.
- **Reading.** In an effort to improve reading, pre- and post-tests are given for students in grades kindergarten through grade 3 to monitor their reading abilities. These are reviewed at weeks 10, 20, 30, and 40. While reading materials are available, neither documentation nor interviewees revealed the availability of a common evidence-based reading model that training supported.
- **Reading Interventions.** Although interviewees did not share any specific reading

interventions in use, they mentioned after school programs that emphasized reading. Teachers are expected to analyze students' reading abilities and group students by areas of need. School directors and teachers lead this effort. Although student assistants would be useful to provide interventions, there are not enough resources for this purpose.

- **Dyslexia.** Reportedly, a dyslexia project is in place, but no additional information was provided to the Council SST.
- **Materials Generally.** There was concern that it is difficult to acquire culturally appropriate materials because they are not produced with Puerto Rican students in mind. But there was a desire to have access to the tools and resources teachers need for evidence-based reading and math instruction.
- **Training.** Interviewees expressed the need for a public policy that established a calendar of professional development topics for the year to reinforce knowledge. They asked for more than a single exposure to important information that requires deep understanding.

## 2. English Core Instruction

It is important that evaluation instruments PRDE/contractual companies use to conduct evaluations are sensitive to whether the student is bilingual and, if so, consider progress in English (bilingually) as well. These cumulative abilities may not be evident when assessing in just one language.

The Curriculum Framework for English instruction contains a compendium of numerous approaches, methods, and theories of teaching and learning. However, it does not evidence the critical Spanish/English program alignment that the Puerto Rico Educational Reform Law references. Also, the Curriculum Alignment document provided to the Council SST comprised an Excel file with units in a matrix indicating which indicators from the English standards are to be addressed in each unit. It did not include any guidance on what standards should be emphasized. For example, there were 60 indicators to be taught in the first unit of first grade.

### Relevance to Intervention and Special Education Evaluation/Eligibility

Often the instruments used to determine need for intervention, disability, and eligibility for special education services are not normed on equivalent populations. It is important that evaluation instruments PRDE/contractual companies use to conduct evaluations are sensitive to whether the student is bilingual and if so, consider progress in English (bilingually) as well. These cumulative abilities may not be evident when assessing in just one language.

Materials from the [English Learner Success Forum](#) (ELSF) provide valuable insights into factors that may influence results for Spanish speakers/bilinguals in instruction and assessment. For example, it discusses how social class, geography, and educational level of parents may cause variation in the sociocultural aspects of language and the varieties of Spanish used. Using

culturally appropriate assessments is as important as consideration for dialectical variations that affect comprehension and production of speech and written words.

### **Translanguaging Approach to Language and Literacy Development**

Achieving Puerto Rico’s bilingualism and biliteracy goals could be facilitated by adopting a translanguaging approach to language and literacy development. Translanguaging perspective recognizes that bilinguals draw from all their language skills to make and express meaning. Students benefit from this approach by being encouraged and taught to use their entire linguistic repertoire, and to compare and contrast their languages in order to develop metalinguistic and metacognitive awareness.

Consider that instruction and learning can be accelerated by the positive, bi-directional transfer of skills between Spanish and English, especially given the “alphabetic overlap and common orthography.”<sup>30</sup> Both languages use the Roman alphabet, have similar Latin/Greek root morphology, and follow similar syntactic structures. The cognates between the two languages facilitate vocabulary recognition and comprehension. Children who acquire high levels of language and reading proficiency in their native language, before or while learning to read in a second language, develop metalinguistic awareness more rapidly than other children. This awareness can facilitate the continuous acquisition of literacy skills in the native language and the second language.

### **3. Math Core/Tiered Instruction**

Mathematics [results](#) from the 2022 National Assessment of Educational Progress (NAEP) showed lower outcomes than in 2019. None of the grades 4 and 8 tested at proficient/above. This percentage was not significantly different from that in 2019 (1%) and in 2011 (0%). Small percentages were posted for basic/above in fourth grade (10%) and eighth grade (6%). These rates were significantly lower than US state outcomes.

### **4. Response to Intervention (RTI)**

PRDE informed the Council SST that staff addressed RTI in the same manner as PBIS. However, no more detail was provided other than referring to the SEA’s State Systemic Improvement Plan (SSIP or plan) and information available on its [website](#). This information, which PRDE included in its February 2022 submission to the US Department, pertained to a plan for improving math performance of fifth-grade SwDs taking the statewide assessment, Measurement and Evaluation System for Educational Transformation (META-PR). Because this initiative was designed for SwDs,

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<sup>30</sup> Phillips Galloway, E., Uccelli, P., Aguilar, G., & Barr, C. D. (2022). Exploring the cross-linguistic contribution of Spanish and English academic language skills to English text comprehension for middle-grade dual language learners. *AERA Open*, 6(1), 1–20.

the SSIP initiative is addressed further below in *Section IV. Accelerating SwD Achievement and Wellbeing of Students at Section IV.B.3. Math Specially Designed Instruction Support.*

### Interviewee Feedback

Interviewees provided the following feedback relating to RTI.

- **RTI Leadership.** The Special Education Department led the SSIP-referenced RTI initiative in the Mariano Region for personnel from specific schools who received training. Interviewees did not seem to have an understanding that such an initiative needs to be based in general education.
- **Intervention.** Interviewees referred to interventions as differentiated instruction, accommodations, or reinforcement of instruction. There did not seem to be a recognition that Tier 1 instruction should be able to meet the needs of most students or be based in core instruction with support.
- **Desire to Include Reading.** Various interviewees expressed their desire for the RTI initiative to expand and include reading.
- **Interdisciplinary Team.** Interviewees inconsistently referred to the presence of an interdisciplinary team at their schools to address students who were underperforming. This may be due to the limited role out of the RTI math initiative.
- **Professional Development.** Some interviewees referred to RTI training received in the past but was not available during the current school year.
- **School Plan.** Schools did not appear to have strategic plans in place to guide their activities during the current year.
- **Data.** While school directors have access to data platforms, there were concerns that data has not been used to drive instruction and improve academic performance.

### 5. Positive Behavior Intervention and Supports (PBIS)

PRDE also provided two sets of documents and written information about PBIS implementation.

- **PBIS Training.** The first set of documents referred to PBIS training in effect since 2018 for students in kindergarten through eighth grade. PRDE explained that “Trauma-Informed PBIS” has been implemented with school-based teams, each including the school director, teachers, social worker, school psychologist, and counselor. Also, the response referred to large numbers of trained participants and students receiving interventions at participating schools in 2018, 2021, and 2023. For example, in the latter year, 4,089 participants attended 1,702 all-day workshops on the three PBIS tiers. About 4,230 students were impacted by 2,795 socio-emotional learning groups offered as Tier 2 interventions at participating schools.
- **Power Point Training Examples.** The second information set explained that the PBIS initiative

concerned Tier 1 and Tier 2 implementation at 612 out of 865 schools, with workshops and mentoring sessions in schools to support school-based personnel. The information included three PowerPoint examples of training for the three PBIS tiers. These files are linked here: [Tema 1 - PBIS 2022 RevFinal.pptx](#), [Tema 2 - PBIS 2022 RevFinal.pptx](#), [Tema 3 - PBIS 2022 RevFinal.pptx](#)

Training documents provided an excellent context for school personnel to understand the impact of the natural disasters/pandemic on students as well as staff persons, and general understanding of PBIS. They addressed the various levels of tiered positive behavior support, and many related activities (committee meetings, consideration of external influences that impact the classroom environment; screening tools; data-driven problem solving; progress monitoring; student profile; functional behavior assessments; assessments of office referral rates; etc.). They also included videos as well as QR codes for more information. A third document (Tema 3 – PBIS 2022) addressed PBIS planning at the school level and included information from the national PBIS Center. It included 2018-19 data by most common behavior problems, location, period of day, action taken, and grade. Overall, these documents were well done and reflected high-quality of production, and the large quantity of information provided requires significant professional learning to absorb.

### Implementation Challenges

In response to a question about PBIS implementation challenges, the PRDE response honestly referred to personnel resistance to change, their belief that the initiative was short-term, and that it required too much of their limited time to implement. With the enormous stressful factors impacting personnel since 2017, Special Education Department survey respondents reported they were burned out, overworked, and poorly supported. PRDE reported they have made significant efforts to explain the value of the PBIS initiative and long-term benefits when implemented as intended. Representatives also referred to a new Work Plan for PBIS implementation, which incorporates Tier 2 Socio-Emotional Learning Groups, professional workshops, and re-incorporates Spanish core competency of students through creative writing.

### Interviewee Feedback

Interviewees provided the following PBIS feedback.

- **PBIS Need.** There was recognition of PRDE’s need to implement PBIS as a support system for addressing behavioral supports for students, and that many student learning problems are related to anxiety, and other mental health issues. According to some, no PBIS training was received this school year.
- **Psychologist Support.** School-based psychologists support both students with and without disabilities. While school teams are supposed to address students’ academic needs, to a greater degree they address their social/emotional issues. Reportedly, psychologists are to

spend two days during the week engaged in prevention-type work and three days providing PEI and compensatory services. Some psychologists acknowledged this time distribution, but others believe their availability for PBIS related activities is limited by special education requirements. Apparently, these dynamics may be influenced by the needs of each school.

### C. Special Education Procedure Manual References to General Education Interventions

There are various sections of PRDE's Special Education Procedure Manual (Special Education Manual) that requires evidence showing whether a student's academic and/or behavioral challenges did not improve with strategies designed to improve performance. These are described below.

#### 1. Location and Pre-Registration Requirements

PRDE's Special Education Manual at section 2.3.a. addresses procedures that occur prior to registering students for special education evaluations (i.e., registration) when attending public schools. Specifically, when teachers and other school personnel believe that a student is experiencing academic/school functioning difficulties, the student's teacher completes the SAEE-01 Report on School or Academic Performance. The information on this form supports a subsequent discussion with the school personnel and the student's parents, which includes "the differentiated education granted prior to the referral, evidence of reasonable accommodations and/or all information that demonstrates the student's needs even with the provision of educational supports and strategies." These pertain to both academic performance and behavior challenges.

#### Educational Strategies and Reasonable Accommodations

Two sections of the SAEE-01 Report relate to educational strategies/reasonable accommodations provided to the student.

- **Educational Strategies.** In this section the teacher describes the various educational strategies used to remedy the student's difficulties. The following examples are listed: differentiated education, response to intervention (RTI), small group instruction, positive behavioral intervention (PBIS), individual classroom instruction, reasonable accommodations/ 504, other." (*Section F*)
- **Reasonable Accommodations.** The Report also has space to document classroom-based reasonable accommodations, listing the following for 1) material presentation (e.g., enlarged print, text to speech reader, audiobooks, repetition of instruction, etc.), speaking materials, videotapes with close caption, etc. 2) student response (note-taking equipment, word processor, recorder, etc.); 3) environment (extended time,, frequent breaks, change of itinerary); and 4) time and itinerary (e.g., distraction reduction, desk/seat location, etc.).

PRDE's comprehensive June 2018 manual, *Guide to Reasonable Accommodations*, describes

the difference between accommodations and modifications, and briefly refers to RTI and PBIS.

For the above, it is important to understand the difference between educational strategies applicable to RTI and PBIS, and accommodations. Educational strategies would be targeted instruction based on student needs, and interventions that supplement the general education curriculum. As described by Intervention Express, interventions are a systematic compilation of well researched or evidence-based specific instructional strategies and techniques.<sup>31</sup> They address a student's deficit skills in such areas as reading mechanics (decoding, fluency, vocabulary, comprehension, reasoning, etc.). On the other hand, accommodations afford access to instruction by providing the student an equal opportunity to demonstrate knowledge and skills. Accommodations are designed to provide equity." It does not appear that school personnel understand the difference.

## 2. Initial Evaluation Requirements

Similarly, the initial evaluation process at Section 3.2.2 requires the assessment to include information showing whether a student's suspected lack of academic progress is due to a condition, disorder or delay. This aspect of the assessment includes information contained in the SAAE-01 Report on School or Academic Performance. The following disability areas have criteria that includes similar specific information.

- **Emotional Disturbance (ED).** The student's characteristics suggestive of ED, e.g., inappropriate types of behavior or feelings under normal circumstances *even when receiving interventions to meet their social-emotional needs*.
- **Specific Learning Disabilities (PEA, also known as Specific Learning Disabilities, SLD).** Failure to meet grade level expectations in one or more areas: basic reading, fluency, comprehension, mathematics calculation/problem-solving, oral expression, listening comprehension, and written expression. To rule out that the student's low achievement is not due to a lack of appropriate instruction in reading or mathematics, the Programming and Placement Committee (COMPU) considers –
  - Information or data demonstrating that previously or as part of the referral process the student received appropriate instruction in the regular educational environment by qualified personnel; and
  - Periodic evaluations documented and gave to parents a formal evaluation of the student's progress during the instruction.

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<sup>31</sup> "Intervention vs. Accommodation." *Intervention Express*, 2023, <https://www.interventionexpress.com/intervention-vs-accommodation.html>. Accessed 17 July 2024.

Although RTI is said to be used to support this “rule out” determination process, the SST did not observe a true RTI process in place to support the “rule out” determination.

Various states include this process to establish eligibility for various disability areas. For example, *Exhibit 1a. Louisiana Bulletin 1508* includes eligibility requirements with relevant criteria.

**Exhibit 1a. Louisiana Bulletin 1508 for Pupil Personnel Appraisal**

- **Autism.** The educational assessment shall include the review and analysis of the student's response to scientifically research-based interventions documented by progress monitoring data.
- **Emotional Disturbance.** Behavioral patterns, consistent with the definition, exist after behavior intervention and/or counseling and educational assistance implemented through the RTI process which includes documented research-based interventions targeting specific behaviors of concern.
- **Documented evidence** must show that scientifically research-based interventions implemented with fidelity did not significantly modify the problem behavior. The intervention(s) shall include operationally defined target behaviors, systematic measurement of the behaviors of concern, establishment of baseline, monitoring of the student's response to the intervention following intervention implementation, or prior to with repeated measures during the intervention. Documentation shall include graphing/charting of the results of the intervention(s), information regarding the length of time for which each intervention was conducted, and any changes or adjustments made to an intervention. *Significantly modify* means that a change in behavior is demonstrated to such a degree that, with continuation of the intervention program by the general education teacher and/or other support personnel, the student could continue in the general education program.
- **Intellectual Disability.** Of five requirements, documented evidence must show that evidence-based intervention(s) implemented with fidelity did not significantly modify the areas of concern. The intervention(s) shall include operationally defined target behaviors, systematic measurement of the academic and/or social areas of concern, establishment of baseline, and monitoring of the student's response to the intervention. These results may not be available for students with low incidence impairments.  
  
The educational assessment should include informal and formal assessments, the review and analysis of assessment results and the student's response to scientifically research-based interventions documented by progress monitoring data.
- **Other Health Impairment.** Documented evidence must show that scientifically research-based interventions implemented with fidelity did not significantly modify the problem behavior. *Significantly modify* means that a change in behavior is demonstrated to such a degree that, with continuation of the intervention program by the general education teacher and/or other support personnel, the student could continue in the general education program.
- **Specific Learning Disabilities.** Comprehensive/documented review of evidence-based intervention(s) conducted with fidelity and for the length of time necessary to obtain sufficient data to determine their effectiveness. Interventions shall be appropriate to the student's age and academic skill deficits and shall address the area(s) of concern. The RTI process shall provide sufficient data to determine if the student is making adequate progress in the general educational curriculum. The individual intervention(s) summary must include graphing of the results of the intervention(s), information regarding the length of time for which each intervention was conducted, and any changes or adjustments made to an intervention.
- **Speech/Language Impairment.** Requirements for a student in grade K or above, data from documented intervention(s) conducted by a speech-language pathologist (SLP) or SLP assistant indicating it is unlikely based

on the rate of learning that the student will within a reasonable period of time acquire correct use of targeted phoneme(s), normal fluency, normal voice quality, and targeted language skills.

### 3. Preparation for the initial PEI

Prior to writing the initial PEI, the Special Education Manual at Section 7.2.4.iv. requires the COMPU to compile all evidence supporting the student's needs. At a minimum this includes observations and/or results of interventions, reasonable accommodations or strategies used to promote the student's academic progress.

#### D. Implications for Decentralization

A much higher percentage of Puerto Rico students receive special education compared to the US average. In 2015-16 PRDE's special education enrollment rate (32.5%) increased in 2023-24 (37.3%)<sup>32</sup> by 4.8 percentage points. By comparison, the 2015-17 US rate (13.2%) compared to its 2021-22 rate (14.7%)<sup>33</sup> grew by 1.5 percentage points. Puerto Rico's 2021-22 rate (34.5%) was 29.8 percentage points higher than that year's US rate. Various interviewees raised concerns that as many as 100 students each day were being registered for an evaluation in one region alone. Although various interviewees attributed this growth to natural disasters and pandemic, high quality Tier I instruction and RTI implementation shortfalls appear to contribute to the island's special education inflation.

As referenced above, as far back as December 2016, the Transformation Commission identified RTI, along with differentiated instruction, as one of two major actions needed to transform special education. (Strengthening early childhood was the second main issue.) Interviewees also stressed the need for collaboration between general and special so special education is not seen as the only way to meet student needs. They expressed concern that too often special education is viewed as the first and only option for students falling behind. In this respect, the use of interventions has been viewed by some as an option rather than a requirement.

Many interviewees expressed their desire to strengthen general education and provide meaningful interventions early to enable students to succeed academically and behaviorally. Interviewees widely acknowledged expectations that prior to registration students would receive interventions to consider if they would improve their performance. However, student success is less likely when the core curriculum is not implemented as intended, when evidence and data-based interventions that supplement the curriculum are not available or used as intended, or when progress monitoring is not conducted so that interventions can be altered as needed.

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<sup>32</sup> Data for 2023-24 provided by PRDE to the Council SST.

<sup>33</sup> 2021-22 is the last year US data is available.

Interviewees reported that too many children are being registered for minor behavior issues, without behavior plans, without any or few prior academic plans implemented, etc.

Based on the above, documentation teachers submit as part of the registration process to show evidence-based strategies were attempted to remedy students' difficulties may have questionable value. Such documentation is necessary to show low achievement/behavioral problems are not related to instructional quality and instead reflect a suspected disability. Furthermore, teachers record such information in SAEE-01 Reports, which are forwarded for registration and becomes part of the evaluation process. Thus, concerns about the foundation for this information follow into the evaluation process.

Various interviewees see RTI as a public policy issue, requiring an explicit Secretary of Education statement of policy, procedure, and practice expectations. They see a need to change school culture with the support of curricular materials and evidence-based interventions. Another essential ingredient is continued professional development so school personnel have the information they need to be effective and for students to experience success. One session is not sufficient to support practice implementation, and continued technical assistance is necessary. Interviewees also called for a structured communication plan to establish a common language and purpose.

As PRDE moves toward decentralization, it is essential that the SEA set forth a comprehensive written MTSS framework of evidence-based components. Such documents are common in the states and allow for SEAs to establish statewide standards and LEAs to adapt them (based on guidelines) for local practices. Other SEA and LEA considerations include identification of curricular materials, increasingly intensive interventions, data gathering and reporting, and personnel resources.

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### **Recommendation 1. Spearhead MTSS understanding and implementation to improve academic achievement and social/emotional well-being for all students.**

The following actions are recommended for PRDE to build on two areas of work that have been in use: RTI and PBIS. Although MTSS is not the sum of this work the models are important components of its overall framework. For this work, identify a project manager with a direct report to the Superintendent of Education to track actions and their status.

#### **a. Core Teams**

Bring together a core team of SEA, LEA, and school representatives committed to developing a strategy for developing, communicating, and implementing the MTSS framework. Engage individuals with expertise and experience in the areas of RTI, PBIS, and evidence-based reading instruction (as a first step). Initiate discussions about the value of using an MTSS

framework as the foundation for activities supporting teaching and learning for all students, including SwDs and students who achieve at highest levels. Have the group develop reports of their work as brief as possible and forward them to the Education Secretary for review and approval. (Note that this process should take a relatively short time, e.g., a few months.)

**Gather resources** to provide information about MTSS principles and related information. In addition to the CGCS white paper, there is a great deal of helpful online resources that can be accessed and reviewed quickly to help develop a working common knowledge. Many SEAs have published their models, which have similar standards. A few of these are from [California](#), [New York](#), [Florida](#), [Colorado](#), [South Dakota](#), and [Broward County School District](#) (Florida). Also see [Model Demonstration Research](#) applicable to English learners sponsored by the U.S Office of Special Education Programs. A simple Google search finds many other sites from technical assistance centers such as the Center on MTSS.

**b. MTSS White Paper for PRDE**

With these or other resources team members may have, develop an MTSS white paper to describe the framework in broad terms. Use the white paper to inform conversations and communication with stakeholders, emphasizing its relevance to improving achievement and well-being especially when it first becomes evident that a student is not learning or behaving as expected. An important message would be that when students are showing academic progress and/or improved behavior their parents and teachers are less likely to look at special education as a needed solution for the child.

**c. MTSS Action Plan**

Based on the above work, develop an action plan to develop an MTSS framework, address its implementation, and monitor its usage. Consider the following components for **framework contents** –

- **Overall leadership and team.** Identify title of individual who will oversee MTSS for the SEA<sup>34</sup>. Because of the “every student” nature of MTSS, ensure the position/person has a broad oversight function so stakeholders do not view MTSS as a special education initiative.
- **Leadership teams** at the SEA, LEA, and school levels that cut across disciplines, e.g., general and special education, related services, etc.
- **Universal Design for Learning** with flexible approaches for students to access material, engage with it, and show what they know.

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<sup>34</sup> With an eye toward decentralization, SEA and LEA terms are used for recommended actions.

- **Tiered instruction/intervention [description](#)** with Tier I core instruction delivered to all students, and increasingly intensive targeted (Tier II), and intensive (Tier III) interventions. Describe processes used to investigate/identify tiered evidence-based reading interventions appropriate for Puerto Rico. To build on PBIS experience identify behavior-related core and increasingly intensive interventions.
- **[Scaffolding](#)** and other strategies useful to support instruction for close reading and accessing more complex text for all students who would benefit.
- **[Progress monitoring](#)** interventions, including types of monitoring models, monitoring frequency based on the intervention tier, adjustments to intervention, etc.
- **[Problem-solving process](#)** to review progress data and make intervention recommendation.
- **[Professional learning](#)** (PL) elements based on identified components needed for SEA/LEA personnel to support schools, and school-based faithful implementation. Linked above is the Minnesota SEA's website with an example of how the agency offers professional learning.
- **[Evaluation process](#)** for schools to self-assess and improve MTSS implementation.
- **[Family engagement](#)** strategies.
- **[Braided funding](#)** from multiple funding sources to support MTSS activities.
- **Feedback loop** from LEAs, schools and community stakeholders on the draft framework.

#### **Action Plan Implementation Considerations**

In addition, have the action plan address the following Upon the SEA approval of the MTSS proposal, develop an implementation plan that incorporates and expands on the proposal's contents. Given the many competing priorities facing the new LEAs and school-based new responsibilities, allow a four-year time frame for island-wide implementation. Include the process and template for LEAs and schools to use to develop their respective implementation plans, along with descriptions of associated expectations. Describe required components based on MTSS standards and those that are flexible based on LEA and school unique characteristics and student needs. Prominently post on PRDE website the approved MTSS Implementation Plan, along with relevant links to SEA information and publicly available resources. Use the website to post documents as they are completed and highlight LEAs and schools that are showing promising results. In addition, have the implementation plan include the following components with attention to their cultural relevance and responsiveness -

- Spanish literacy, mathematics, and English core curriculum framework guidance with consideration of the following –

- **Guidance** that operationalizes the curriculum to help teachers know what to teach and how to teach it, as well as how they will know if students learned what was taught.
- **Assess the [Santillana digital library](#)** to determine supplementary materials needed for intervention and specially designed instruction for SwDs, as well as assessments to monitor progress.
- **English language development** agreed upon approach based on sound theory and research, with clear expectations and non-negotiables identified to facilitate consistency across classrooms/schools. This approach would support more targeted professional learning and facilitate monitoring. Given the fluidity with which many families go back and forth between the island and mainland, consider the influence of English on Spanish language development; metalinguistic awareness as a key component of multilingual learner competence; and metacognitive skill.
- **Written guidance** that describes Puerto Rico’s framework with links to more detailed information. In particular, include–
  - **Expected activities.** Descriptions/examples of instruction/interventions and progress monitoring expected to support a student’s suspicion of disability for special education or Section 504 services and add them to the Special Education Manual. Provide exceptions for students suspected of having significant cognitive disabilities, or other obvious disabilities. Consider those required by the Louisiana Department of Education’s Louisiana Bulletin 1508. (For a description see Exhibit 1a. Louisiana Bulletin 1508 for Pupil Personnel Appraisal.)
  - **Accommodations vs interventions** distinctions with examples of each and usage. See, e.g., [Intervention Express](#).
- **Material resource gap analysis.** Provide a school template to assess current material resources against those needed for implementation. Have LEAs collect the gap analysis. Provide a funding source to each LEA (or to schools if feasible) with a phased in process for filling resource gaps. Consider accessing CGCS resources for assistance in finding materials that are culturally and instructionally appropriate for Puerto Rico.
- **Core instruction and intervention catalog.** Research and selection of reading and behavior-social/emotional well-being instruction/intervention menu approved for school-based use. This requires a process of vetting/selecting high-quality supplementary materials for intervention and enrichment that will be used consistently across schools. Consider using an instrument like the one developed by [English Learner Success Forum](#) (ELSF). Other resources include the [Texas Resource Review](#) (TRR) Spanish Foundational Literacy Grades K – 2. Some of the selection criteria outlined by ELSF include:

- Materials reflect the structure and traditions of Spanish Literacy, from foundational to advanced.
- Materials reflect, value, and utilize students’ linguistic gifts (in all their languages).
- Materials reflect the sociocultural and linguistic hybridity of bilingual-bicultural students and families
- Materials integrate a linguistically inclusive approach to assessment
- **Dyslexia.** Consider work being done to address dyslexia in Puerto Rico and Spanish speaking countries, as well as in dual language programs in the US and elsewhere. For example, [Lectores Para el Futuro](#) provides Orton-Gillingham training to teachers in Puerto Rico (although appears to be mainly in English at this time) and [Esperanza](#) is a mainland U.S.-based program that uses a Spanish multisensory structured language approach for early reading, writing, spelling, and associated evidence-based instructional guidance. Also, see the [California SEA Dyslexia](#) document, particularly Chapter 11, Effective Approaches for Teaching Students with Dyslexia.
- **Benchmark assessments/tools for monitoring progress.** Review, select and use to identify and address areas of strength and needs. Collect/analyze curriculum-based measurements to inform instructional decisions and determine need for interventions/enrichment. Ensure that these are culturally and linguistically relevant and appropriate, normed on similar populations true peers, or establish local norms based on the students in Puerto Rico. This action is critical to improve results and reduce special education referrals.
- **LEA support.** Identify LEA cross-cutting teams to support school-based implementation.
- **Professional learning.** Cross-train SEA and LEA individuals from multiple disciplines to ensure common language and understanding of MTSS. This will help align and support schools as they work on implementation. In addition, include PL for evidence-based reading instruction. Ensure PL is engaging and differentiated based on participants’ experiences and need. Have PL and technical assistance continue for new personnel and those needing additional support. Include opportunities like those offered by the Center for Applied Linguistics ([cal.org](#)) and conferences like those offered by the National Association for Bilingual Education ([nabe.org](#)) and New Mexico’s [La Cosecha Dual Language Conference](#).
- **High-quality trainers.** To the extent possible, identify staff members at all levels who are knowledgeable about and are experienced in various MTSS components and deploy them as trainers. Expand this group with intensive training. As necessary, supplement these staff members with experts outside PRDE.

- **Multiple PL formats.** Use multiple formats (e.g., videos, webinars, and narrative text) and presentation approaches (e.g., school-based, small groups). Include those to reinforce, go deeper, and further explain initial training.
- **LEA assistance to schools.** Support school directors and school-based leadership teams, in addition to regular/special education teachers and related services personnel. To the extent LEA staff has expertise, have them model instruction and coach staff members to reinforce training and materials usage.
- **School walkthroughs.** Establish walkthrough<sup>35</sup> protocols for LEA personnel to observe MTSS implementation. Follow-up walkthrough results to identify trends, strengths, and action items. Use electronic tablets to the extent possible to support this process.
- **Exemplary implementation models.** Provide LEA/across LEA forums where LEA/school personnel can highlight and share best practices, lessons learned, victories, and challenges. Identify exemplary schools and enable staff from other schools to visit.
- **MTSS Webpage.** As other SEAs have done, develop an MTSS webpage and use it to prominently post all relevant information for broad messaging and communication.

**d. Data Analysis and Reports**

Review current data collection, analyses, and reports and supplement them with indicators or metrics that would be useful to determining schools' use of MTSS practices and its relationship to student achievement, e.g., growth based on appropriate instruction and intensive interventions.

**e. Timely Communication and Feedback**

Assign responsibility for communicating the MTSS work to stakeholders through a variety of channels, e.g., website, television, radio, social media, etc. Design feedback loops to the SEA from LEAs and from school personnel to LEAs for issues beyond their control and assistance they need. Also, have a mechanism for community stakeholders to give feedback to associated LEAs and the SEA.

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<sup>35</sup> The term "walkthrough" is used generically and applies to all school observation models used by the LEA.

## II. DISABILITY DEMOGRAPHICS AND ELIGIBILITY

*Section I. MTSS for Accelerating Student achievement and Well-being* has implications for registration decisions, evaluations, and special education eligibility. When implemented as intended, students benefit from MTSS components, including high quality core instruction, increasingly intensive interventions, and monitoring to reflect progress. When MTSS practices are not well implemented due to a lack of written information, material/human resources, training, etc., special education advocacy increases for students who are not achieving. When these circumstances are addressed and registration, evaluation, and classification processes improve, special education reliance decreases, and therapeutic personnel are better able to engage in prevention activities.

Various data below provide a context for Puerto Rico's diverse group of students with disabilities. When available, data compares U.S.,<sup>36</sup> PRDE, and region outcomes. These comparisons are useful to identify and address reasons for large differences in such areas as registration referral, disability eligibility, etc. Furthermore, it is important to assess interventions available to educators for the remediation of student difficulties when first exhibiting academic/behavior difficulties, and how evaluators consider this information during assessments and by Programming and Placement Committee (COMPU) teams when making eligibility determinations.

Section II address the following areas –

- A. Special Education Demographics
- B. Special Education Registration, Evaluation, and Eligibility
- C. Section 504 Data and Operation
- D. Decentralization Implications

### A. Special Education Demographics

This section summarizes PRDE and regional data by the following elements –

- 1. Overall PEI Rates
- 2. PEI Rates by Grade
- 3. PEI Rates by Disability Area
- 4. Registration and Eligibility

#### 1. PEI Rates Overall

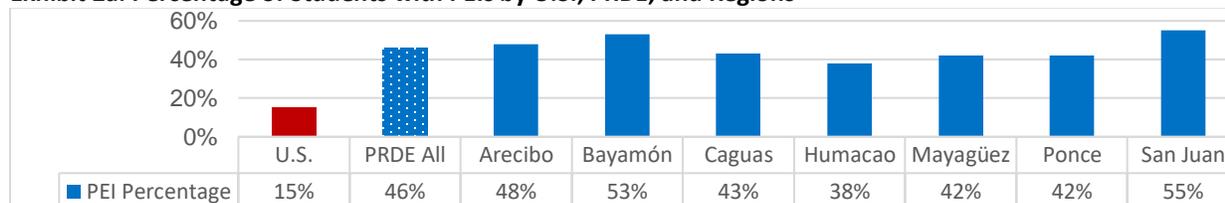
The PR percentage of students receiving special education (46%) is 31 percentage points higher than the U.S. rate (15%). PR students are three times more likely than U.S. students to need

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<sup>36</sup> [U.S. rates](#) include outlying areas and freely associated states and reflect the latest 2022-23 data available. Unless otherwise stated PRDE provided all student data, which was for the 2023-24 school year.

special education. Compared to the overall PRDE rate, regions varied by 17 percentage points. San Juan (55%) and Bayamón (53%) had highest rates and Humacao (38%) had the lowest.

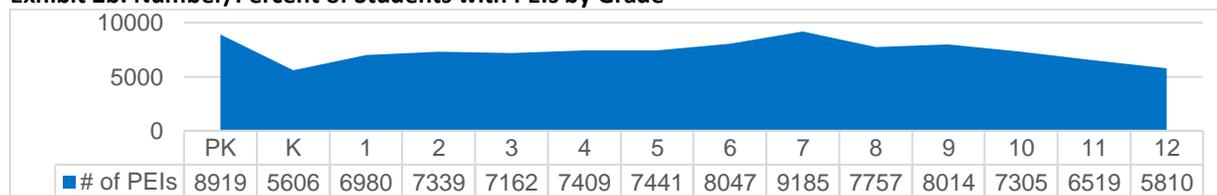
**Exhibit 2a. Percentage of Students with PEIs by U.S., PRDE, and Regions**



## 2. PEI Rates by Grade

As data shows in *Exhibit 2b. Number/Percent of Students with PEIs by Grade*, figures for all students with PEIs reflected a sharp student decrease from pre-kindergarten<sup>37</sup> to kindergarten (-3,313), an initial increase at first grade (+1,374), and again at seventh grade (+1,138). Beginning in eighth grade the figures began to decrease and by twelfth grade they decreased by 3,375 students.

**Exhibit 2b. Number/Percent of Students with PEIs by Grade**



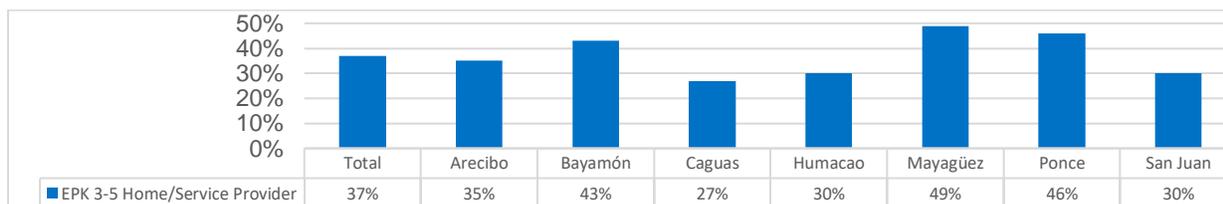
## EPK Children with PEIs Educated At Home or with Service Provider

Figures in *Exhibi2c. Number/Percent of Students with PEIs Educated at Home or with a Service Provider* show a substantial percentage (37%) of young PreK children with PEIs were educated in this setting. The rates ranged by 15 percentage points from Mayagüez (49%) and Bayamón (43%) to San Juan (30%). An area for further inquiry would be the reasons for this large percentage of students educated outside a public school and the large decrease in the number of students with PEIs attending kindergarten.

**Exhibit 2c. Number/Percent of Students with PEIs Educated at Home or with a Service Provider**

<sup>37</sup> PreKindergarten (K) included EPK (students at home or with service provider), special education pre-K, and Montessori pre-school.

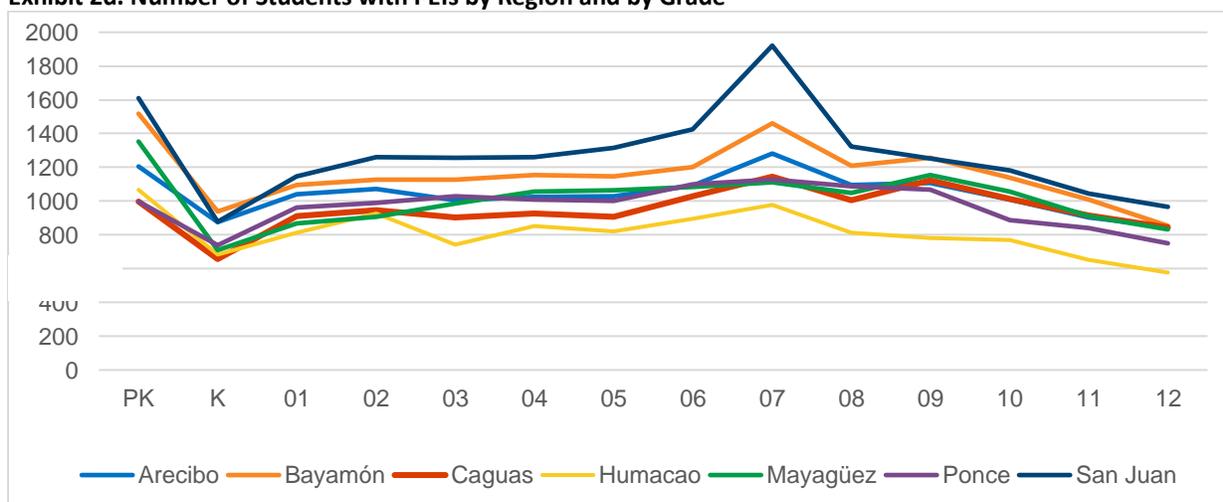
## Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications



### PEI Rates by Region and by Grade

Data in *Exhibit 2d. Number of Students with PEIs by Region and by Grade* show similar patterns across regions, and similar decreases at kindergarten and increases at first grade. Spikes at seventh grade were apparent for all regions except for Mayagüez and especially for San Juan. All regions had steadily declining numbers after seventh grade. The lower high school year figures likely reflected students who had dropped out of school.

**Exhibit 2d. Number of Students with PEIs by Region and by Grade**



### 3. PEI Rates by Disability Area

Data in *Exhibit 2e* show the five most common disability area rates for the U.S. (including outlying areas and freely associated states), PRDE, and its seven regions.<sup>38</sup> For the U.S. and PRDE, these areas comprise almost all disability areas (98% and almost 100%, respectively).<sup>39</sup> The most notable data findings are described below.

- **U.S. and PRDE Rates.** In most areas, U.S. and PRDE rates are the same or slightly different.

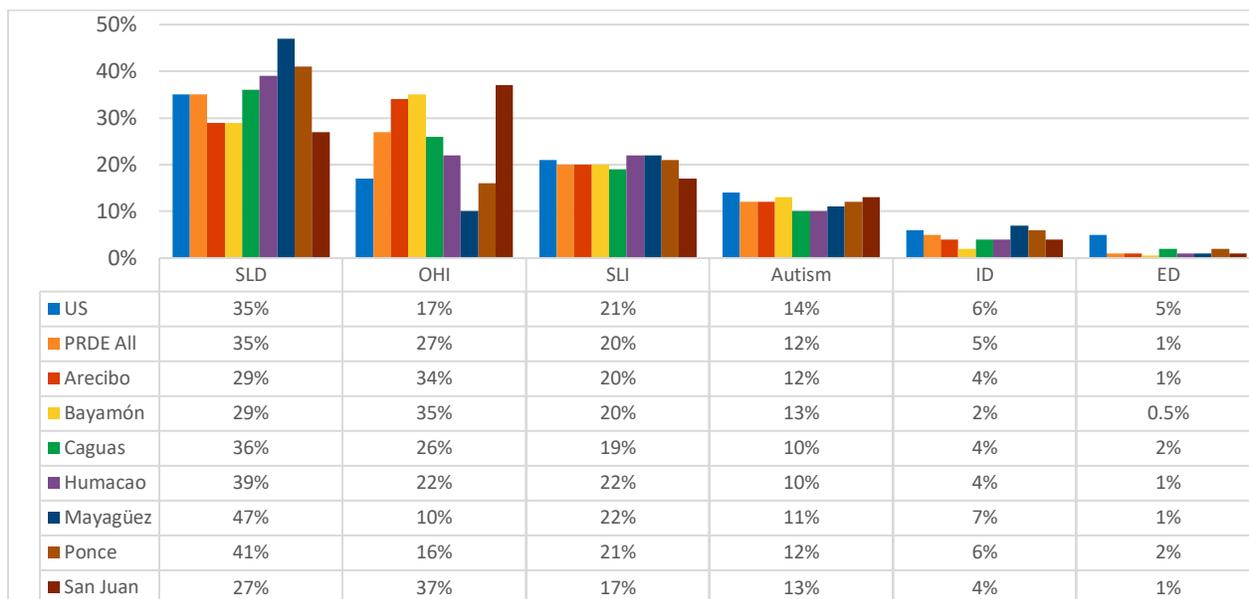
<sup>38</sup> "IDEA Section 618 Data Products: Static Tables Part B, Count Environ Table 3." *U.S. Department of Education*, 2023, <https://data.ed.gov/dataset/idea-section-618-data-products-static-tables-part-b-count-environ-table3/resources>. Accessed 17 July 2024.

<sup>39</sup> Because PRDE does not use the disability category of developmental delay (DD), which is available and widely used in the U.S. for children up to the age of 9 years, we removed that category from U.S. data analysis for comparison purposes.

These include those for specific learning disability (SLD, each 35%), speech/language impairment (SLI, 21% and 20%, respectively), autism (14% and 12%), and intellectual disability (6% and 5%, respectively). Two areas show disparate U.S. and PRDE rates: other health impairment (OHI) (17% and 27%, respectively) and emotional disturbance (5% and 1%, respectively). Our experience with the area of OHI is that high rates are associated with attention deficit hyperactivity disorder (ADHD). The U.S. Department of Education does not collect data separately for ADHD because it is not a specified category under the Individuals with Disabilities Education Act (IDEA), but it is included under the OHI definition. To consider whether this circumstance is similar in Puerto Rico or that this category comprises a larger than typical proportion of students with non-ADHD health issues, PRDE might consider collecting ADHD data to better understand this issue.

- **PRDE and Region Rates.** Regions show considerably rate differences by disability area. The areas below comprise at least 98 percent of each regional total.
  - **SLD.** Compared to U.S. and PRDE rates (each at 35%), regional rates ranged by 18 percentage points from Mayagüez and Ponce (47% and 41%, respectively) to Arecibo and Bayamón rates (29%).
  - **OHI.** Compared to the PRDE rate (27%), regional rates ranged by 17 percentage points from San Juan (37%) to Mayagüez (10%).
  - **SLI.** Compared to the PRDE rate (20%), regional rates ranged by 5 percentage points from Humacao and Mayagüez (each at 22%) to San Juan (17%).
  - **Autism.** Compared to the PRDE's rate (12%), regional rates ranged by a small 3 percentage points from Bayamón and San Juan (each at 13%) to Humacao and Caguas (each at 10%).
  - **ID.** Compared to the PRDE's rate (5%), regional rates ranged by 5 percentage points from Mayagüez (7%) to Bayamón (2%).
  - **ED.** A small percentage of PRDE students are identified as having ED (1%) compared to the U.S. (5%). Regional rates ranged from Caguas and Ponce (2%) to Bayamón (0.5%).

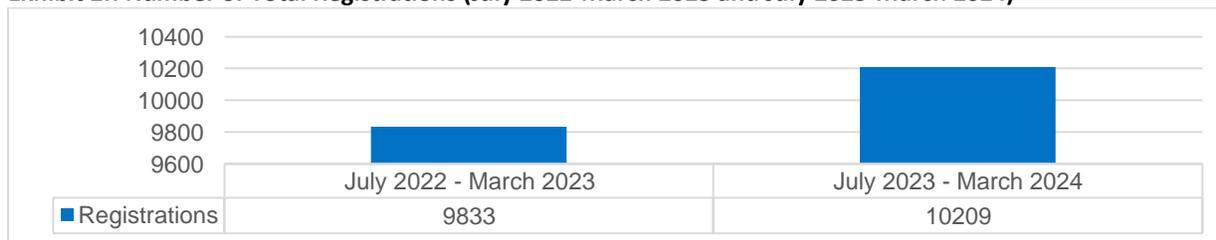
**Exhibit 2e. Disability Area Rates by U.S. PRDE, and Region**



#### 4. Registrations and Eligibility Data

Figures in *Exhibit 2f. Number of Total Registrations (2022-23 and 2023-24)* for July to March shows that the 9,833 registrations from the former year increased to 10,209 for the same period in the current year. With this progress, it is likely that 2022-23’s registration of 12,589 students will be higher in 2023-24.

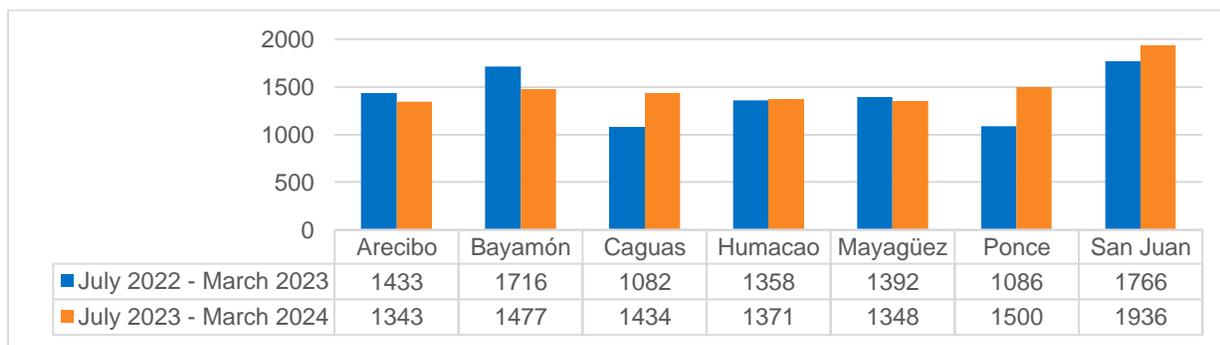
**Exhibit 2f. Number of Total Registrations (July 2022-March 2023 and July 2023-March 2024)**



#### July to March (2022-23 and 2023-24) Registrations by Regions

Figures in *Exhibit 2g. Number of Total Registrations (2022-23 and 2023-24)* compare these figures by region for the two school years from July to March. For these 9 months, four regions have increased numbers of registrations. The largest increases were received in Ponce (414) and Caguas (352), followed by San Juan (170) and Humacao (13). Registrations for the remaining three regions decreased. Bayamón had the largest decrease (-239), followed by Arecibo (-90), and Mayagüez (-44).

**Exhibit 2g. Number of Total Registrations by Region (July 2022-March 2023 and July 2023-March 2024)**



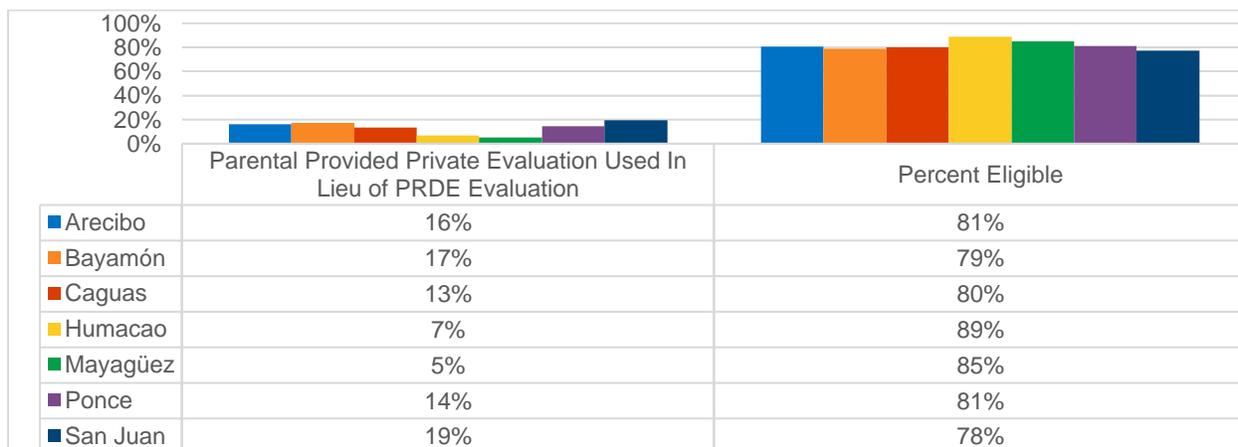
### Total Student Evaluations Completed Resulting in Eligibility (2022-23)

Data provided by PRDE reported a total of 16,224 evaluations were completed during 2022-23, of which 2,257 (14%) were performed by private assessors. Of students with completed private evaluations, 81 percent were found eligible for special education.

Figures in *Exhibit 2h. Completed Student Evaluations by Private Assessors and Disability Eligibility (2022-23)* show percentages of all evaluations that were parentally obtained and eligibility results by disability area. Across regions the data showed small variations.

- Parentally Obtained Private Evaluations in Lieu of PRDE Evaluations** ranged by 14 percentage points. San Juan (19%), Bayamón (17%) and Arecibo (16%) had the largest rates while Mayagüez (5%) and Humacao (7%) had the smallest rates. In our experience, U.S. school district assessment teams review outside evaluations and consider them while conducting their own evaluation results. School district professionals review outside evaluations to 1) ensure they meet federal and state criteria; and 2) assist the COMPU with interpretation and application of evaluation results.
- Evaluations Completed by Disability Area.** Of all evaluations completed, those resulting in a decision of eligibility ranged by 11 percentage points. Humacao had the highest rate (89%) and Bayamón (79%) and San Juan (78%) had the lowest rates.

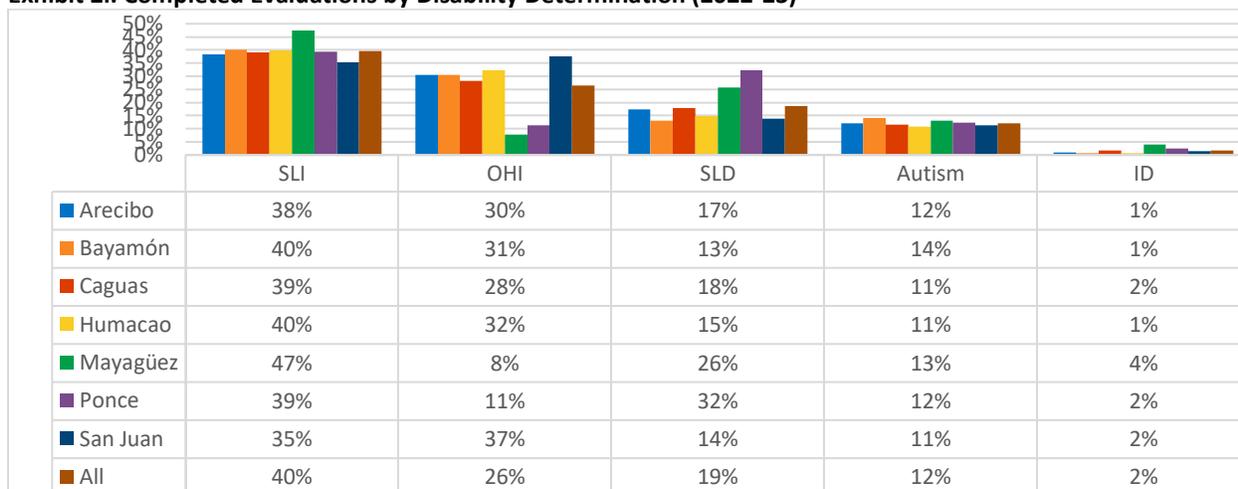
**Exhibit 2h. Completed Student Evaluations by Private Assessors and Disability Eligibility (2022-23)**



### Completed Evaluations by Disability Determination

Figures in Exhibit 2i. Completed Evaluations by Disability Determination (2022-23) show the most common disability areas variances by region compared to PRDE overall averages. Several disability areas reflected varying disparities across regions.

Exhibit 2i. Completed Evaluations by Disability Determination (2022-23)



- **SLI.** Overall, this area was the most frequent PRDE disability (40%) with regions varying by 7 percentage points. Mayagüez’s rate (47%) was highest, and San Juan’s rate (35%) was lowest.
- **OHI.** With an overall PRDE rate of 26 percent, regional rates varied by 29 percentage points. San Juan’s rate (37%) was highest and Mayagüez’s rate (8%) was lowest.
- **SLD.** With an overall PRDE rate of 19 percent, regional rates varied by 19 percentage points. Ponce’s rate (32%) was highest while rates in Bayamón and San Juan (13% and 14%, respectively) were lowest.
- **Autism.** With an overall PRDE rate of 12 percent, this area had the most consistent rates

across regions with a variance of only 3 percentage points.

- **ID.** With a PRDE rate of 2 percent, the regional rates were the same or 1 percent, except for Mayagüez's rate that was a higher 4 percent.

Focus groups provided the following feedback about processes for special education evaluations and eligibility. Their feedback addressed the following areas –

### B. Special Education Registration, Evaluation, and Eligibility

Interviewees addressed Puerto Rico's unusually high special education rate in various ways. These included the following –

- **Access to Health Care.** Puerto Rico does not receive Medicaid in the same way as in the states, with parents having less access to health care insurance as a result. Therefore, parents are motivated to receive services through the special education system. As discussed above, the area of OHI includes students with ADHD so the proportion of students with health issues is unclear.
- **Poverty.** The island's high poverty rate results in higher rates of students with neurological impairments. Interviewees perceived that this factor is associated with higher rates for intellectual disabilities (ID), autism, and multiple disabilities (MD). However, data showed that Puerto Rico's rates were lower than U.S. rates for each of these areas: ID (4% to 6%), autism (12% to 14%), and MD (1% to 2%). Other areas, such as orthopedic, vision, and hearing impairments, which may have been impacted show small prevalence, constituting less than 1 percent of all students receiving special education.
- **Parent Advocacy.** A common theme expressed by interviewees concerned the extent to which parents sought special education for their children to access therapy services. They perceived that parental pressure unduly influences evaluators and COMPU teams desiring to avoid conflict.
- **Belief of Parent Registration Right Upon Request.** There is a strong belief that PRDE personnel have no right to deny a parent's request for registration. Although we were directed to look at various Rosa Lydia Vélez (RLV) stipulations and Law 51 (Comprehensive Educational Services for Persons with Disabilities Act), our review did not identify such a requirement. This issue is fully addressed below.

#### 1. Personnel Disagreement with Parent Registration Request

As addressed above, a surprising issue that surfaced during interviews concerned a requirement for school personnel to proceed with registration-related activities upon parental request. This action does not align with our understanding of IDEA rules and US school district practices. Instead, the requirement is that parents be given notice of procedural safeguards available to

them when school personnel believe that an evaluation of the child is not warranted. For example, the Michigan Alliance for Families' [webpage](#) addresses this issue and states –

**Can the school deny an evaluation request?** Districts have a child find responsibility to identify, locate, and evaluate all children who may be entitled to special education services. If the school refuses to evaluate, you have to be notified in writing. After receiving Notice, parents have the option to dispute the decision via a State Complaint [for a due process hearing or SEA administrative investigation].

States, such as Illinois, have a rule that requires SEAs to respond to a parent within 10 days of this (or other) denied request. The Special Education Manual does not have a timeline rule, and it has contradictory information about registration. On page 339, it defines registration as a written request for the Regional Educational Office (ORE) to conduct an evaluation when a child is suspected of having a disability and *may need special education services*. Registration takes place at the Special Education Service Center.” (Emphasis added.) Parents, in addition to school staff and other government agencies can make the referral for registration. However, the Special Education Manual also includes the form, SAE-03b. Prior Written for Evaluation and Therapies, which in pertinent part refers to prior parental notice when the Department of Education denies referral for an initial evaluation, citing IDEA at 34 CFR §300.503(a). As IDEA also requires, the form gives parents notice of their procedural safeguards. Relevant contents of [this form](#) are shown below in *Exhibit 6k. SAE-03b. Prior Notification for Evaluation and Therapies*.

**Exhibit 6k. SAE-03b. Prior Notification for Evaluation and Therapies**

<ul style="list-style-type: none"><li>• You are notified that the Department of Education proposes to/denies referral for initial evaluation ...</li><li>• Reasons why the action described above is proposed or denied: _____</li><li>• Description of all evaluations, tests, reports, records and/or documents considered for this determination: _____</li><li>• Description of other factors relevant to the Agency’s decision: _____</li><li>• ___ You are provided with a copy of the Parent Rights Document</li><li>• ___ They are informed of [right to receive Parent’s Rights document, etc.] Under the provision of 34 CFR §300.503(a), the Agency must give you prior written notice (written information) whenever: ... (2) Refuses to initiate ... the ... evaluation .... to your child. (Emphasis added.)</li></ul>
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As addressed below, our review of relevant RLV stipulations and the Special Education Manual did not reveal any requirement that PRDE personnel must automatically register a student upon parent request.

**RLV Stipulations**

In response to our question about the source of any requirement that an evaluation must proceed based on a parent’s request, PRDE’s representative referred to the case’s monitoring

plan at Stipulations 4, 49, 50, and 51. We reviewed the Associate Secretariat of Special Education's (SAEE) October 31, 2023, Compliance Report for Caso Rosa Lydia Vélez vs DEPR 2022-23 (Compliance Report). The four stipulations identified, which are simplified below, do not include this requirement.

- **Stipulation 4 – Evaluation within 30 Days of Registration.** Procedures to evaluate a child for special education/related services completed within 30 calendar days from the registration date.
- **Stipulation 49 – Timely Reevaluations.** Re-evaluations required to determine eligibility and offer educational/related services to be completed within three years from the last evaluation.
- **Stipulation 50 – Untimely Reevaluation.** After the three-year period elapsed, without a reevaluation, a student may request reevaluation through the provisional remedy.
- **Stipulation 51 – Data System.** Centralized systems must be in place to determine if students not reevaluated within three years continue to be eligible for special education. Use this process also for students with overdue evaluations who have not been reevaluated for related services.

### Special Education Manual

Various sections of the Special Education Manual address when school personnel are to refer parents to the ORE to register for an evaluation. Below are two relevant provisions that depend on whether school personnel or parents suspect a disability.

- **Personnel Suspect Disability.** When teachers and other school personnel believe a student is experiencing academic or school functioning difficulties due to a possible disability, after a discussion with the parents they are invited to register the child for a special education evaluation. (Section 2.3.1.a)
- **Parents Suspect Disability.** When parents suspect that their child has a disability that is interfering with academic progress, they may ask the school principal to initiate a registration process. Based on this request, school personnel are to meet with the parent *“to evaluate the student's educational functioning and possible need for special education services.”* (Section 2.5.3.a-b, emphasis added.) Note that this section does not require school personnel to agree with the parental suspicion and initiate the registration process. Rather, meeting participants evaluate the student's performance and consider the possible need.

As part of the U.S. Department of Education's August 14, 2006, final regulation the agency posted a relevant comment. Acknowledging that a parent may request an initial evaluation the comment stated –

*If, however, the public agency does not suspect that the child has a disability and denies the request for an initial evaluation, the public agency must provide written*

notice to the parents, consistent with § 300.503(b) and section 615(c)(1) of the Act, which explains, among other things, why the public agency refuses to conduct an initial evaluation and the information that was used as the basis to make that decision. The parent may challenge such a refusal by requesting a due process hearing ....”<sup>40</sup>

Puerto Rico’s high special education rate has an enormous impact on teaching/learning, human material resources, dispute resolution, and RLV compliance. These issues thread through Sections IV. Support for SwD Achievement and Wellbeing, V. Administrative and Operational Support for SwD Teaching/Learning, and VI. Special Education Accountability Measure.

## 2. Registration Process and Decentralization Considerations

The information below explores registration procedures based on the Special Education Manual, RLV stipulations, and interviewee feedback. Also, this section addresses decentralization implications for registration.

### School-based Process Leading to Registration

The Special Education Manual describes the process for schools to use for students when they suspect a special education need. (This does not relate to parent registration requests.) Generally, a meeting with teachers, parents, and the director is held to discuss the student’s educational progress and the basis for this suspicion. If parents agree to register the child, the social worker and teacher(s) each complete various required forms. The social worker interviews the parents to complete a social-emotional and initial developmental history, interviews the student, and collects necessary documents. A teacher completes a report on the student’s school or academic functioning and collects work samples showing the student’s educational performance and needs. The SAEE-01 teacher report was previously referred to in Section I regarding MTSS. (Other procedures apply to students not enrolled in a public school.) This information is given to the parents who then visit the Special Education Service Center (CSEE) to register the student for an evaluation and deliver the school package of information.

Interviewees generally described the process similar to the above; however, they shared several concerns about the process that include the following –

- When a parent requests an evaluation, schools do not always hold a team meeting to review the parent’s reasons for the request; instead, the parents receive relevant forms and are told to register their child at the CSEE.
- The teacher evaluation does not consistently contain sufficient information to describe the

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<sup>40</sup> Federal Register, Volume 71, No. 156, August 14, 2006, at page 46636, accessed at <https://www.govinfo.gov/content/pkg/FR-2006-08-14/pdf/06-6656.pdf>

student's problem or to show that the student received appropriate instruction or behavior support. This information is similar to the Council SSTs stated concerns described above in Section I related to MTSS.

### Registration and Decentralization Implications

There is strong desire for the decentralization model to have schools register students for special education evaluations, which is the norm for U.S. schools. According to information PRDE provided to the Council SST, the decentralization process plans to have parents register their children at their school of attendance. Parents of other children, such as those who are not attending a public school, may use designated registration centers within each community. As described further below in *Section VII. Implications for Decentralization*, since April 2024, selected schools have been piloting decentralization by registering students for evaluations with the use of school social workers and counselors. There is a reasonable belief that this change will expedite this process and enable student evaluations to begin sooner.

Council SST interviewees had not yet experienced the registration process, so we have no information about its implementation, whether it resulted in increased registrations and/or the scheduling of student assessments was problematic or achieved in a timely manner. Interviewees raised a concern that this change could result in an increase of special education evaluations and students with PEIs. Without specific processes in place to limit evaluations to students for which information shows a reasonable basis for suspecting a disability, this concern would likely be realized. The MTSS process is designed to produce such information. There were questions also about how social workers and counselors would manage their existing duties and student caseload responsibilities if they are given registration responsibilities.

## 2. Evaluation Process and Decentralization Implications

Interviewees and documents we reviewed raised concerns about PRDE's reliance on private evaluators and off-site school evaluations. The decentralization initiative that would have school psychologists play a greater evaluation role could begin to reduce this reliance and move toward evaluating students at their school site. These issues are discussed below.

### Use of External Evaluators

Interviewees were very familiar with the requirement for the evaluation to be completed within 30 days from registration, pursuant to RLV Stipulation 27. Interviewees expressed concern that the great majority of student evaluations are completed by external corporations that have contracts with PRDE. These private evaluations are not conducted at the school site and typically not at the CSEE. This circumstance has important implications, such as those expressed below –

- Assessors may take information from a parent about the child's educational performance without directly verifying it through an observation of or interaction with the child at school.
- An assessor from one corporation may recommend therapies that the corporation then

provides. This raises bias and conflict of interest issues.

- If a parent brings a privately obtained evaluation report, evaluators do not independently verify or review the findings with other evaluative information.
- There is a desire to evaluate students at the local site, which interviewees view as “best for the student.” Some interviewees experienced this model when working on the mainland and appreciate its advantages.
- With psychologists spending three days on PEI-related therapy (45-minute sessions for individualized or four-student groups) and two days addressing the needs of students without PEIs, there is a belief that not enough time is available for them to conduct special education evaluations. It is also possible that contractual corporations will be uninterested in having their personnel conduct evaluations at the school site because it is not cost effective.

The Puerto Rico process differs from our collective experience in the U.S. where, absent unique circumstances, evaluations are conducted at the student’s school by public school assessors. The school setting facilitates communication and additional observations as needed and enables local assessors to be better informed and understand the student’s academic and social/emotional behavior concerns in the school setting. It also provides a familiar environment for the student who may be nervous about the evaluation and interacting with a stranger who is conducting the evaluation.

The Final Report from the Commission for the Transformation of the Special Education Program (December 2016) made two findings relevant to these issues. They concern contracts with mega-corporations that offer low cost and poor-quality assessments, which then lead to poorly developed PEIs and services. The Commission recommended that PRDE reduce its reliance on private corporations for conducting evaluations, which “...could be done more effectively, agilely, and cost effectively by professionals hired by the DE.”

### Decentralization Implications

According to PRDE representatives, evaluations would continue at regional special education centers, but psychologist assessments could be done at the school site when they have assessment protocols. Purchasing protocols has been problematic. Interviewees reported that PRDE is not registered in a portal necessary to buy the popular Woodcock-Johnson Test of Cognitive Abilities. An expensive go-around has been used with private psychologists or company purchasers who resell them to psychologists at a higher price. Reportedly, PRDE is in the process of purchasing psychological protocols for school psychologists.

Interviewees expressed positive comments about having evaluations conducted at the school level, but there were concerns that psychologists would not have sufficient time for this activity. It is noteworthy here that PRDE reported figures showing 523 full time equivalent (FTE) school psychologists of which 398 (68%) were contractual. This figure reflects an average ratio for the

country of 44 students to 1 psychologist. Comparing this ratio to 73 other U.S. school district FTEs collected over time, PRDE's ratio is the second lowest. The overall ratio for psychologists is 174 students to 1 psychologist. (*Section V. Administrative and Operational Support for Teaching/Learning* presents a comprehensive review of seven PRDE special education/related services personnel areas.)

These figures confirm the Council SST's impression during the on-site visits across the system that PRDE's number of school psychologists reflect a student-to-staff ratio far exceeding that of typical U.S. school districts. As referenced above, in other large urban districts across the U.S., psychologists commonly evaluate students at the school site. The primary difference is that their practice does not include as much therapy or services for SwDs as in Puerto Rico. Decentralization presents an opportunity for PRDE and stakeholders to assess student benefits associated with current practices against those that would be achieved by evaluating students at school sites. This would require strategies to either increase the number of PRDE employed psychologists, which could be supplemented by contractual personnel, or adjust their responsibilities to carry out the evaluation role. Reportedly, 50 schools without psychologists are located in rural communities that make assignments difficult. Similar problems, which include remote areas or other locations with associated staff vacancies, are common in the states. Decentralization will likely not solve this issue and instead require various incentive measures.

### 3. Eligibility Process and Decentralization Implications

Stipulation 27, which concerns initial evaluation referrals, describes eligibility determination as:

the process by which all information collected during the registration and evaluation process is analyzed in order to determine whether the student has a disability and, because of this, needs a specially designed education that allows you to progress in the general curriculum. The determination of whether or not a student is eligible for services is established by the Programming and Placement Committee (COMPU) based on observations from specialists, teachers, and parents.

The Special Education Manual at Section 4.4 (Procedure for determining initial eligibility) explains that the COMPU makes the eligibility determination for special education, which according to RLV Stipulation 5 must be completed within 60 days of registration. Section 4.4.4 refers to another section in a separate provision of the manual, Section 6, for a description of required COMPU team members, which reflects IDEA requirements. (*See Exhibit 2j. IDEA-Required Eligibility Determination Participants.*)

#### **Exhibit 2j. IDEA-Required Eligibility Determination Participants**

- A PRDE representative who is qualified to provide or supervise the provision of specially designed instruction aimed at meeting the unique needs of children with disabilities; have knowledge of the general curriculum; and know the availability of resources in the education region.
- At least one regular education teacher of the student. (Note, at the time of eligibility it would not yet be known if the student would not participate in a regular class. For the PEI, if this circumstance applied the regular teacher would not be required.) Although addressed in the section concerning SLD, the Manual explains that for students without an assigned regular teacher, the team must include one who is qualified to teach children/youth of the same age. When the regular teacher cannot attend the meeting, alternative means are used, e.g., written reports, video calls or telephone calls.
- At least one special education teacher or, where applicable, at least one special education service provider.
- A person who can interpret the educational implications of the evaluation results (may be the PRDE representative).
- The father, mother, or student's legal guardian.
- Also, for students suspected of having an eligibility of SLD, the participants must include at least one professional qualified to conduct individual diagnostic tests, for example, psychologist, speech-language pathologist, or other. (Other participants are required based on additional circumstances.)

### Interviewee Feedback

Interviewees shared various concerns about the eligibility process –

- Currently the meeting to determine a student's eligibility for special education takes place at the CSEE, with the regional facilitator acting as the PRDE representative.
- Reportedly, COMPU participants include the director, facilitator, a contractual psychologist and the parent. The SST heard that school personnel rarely attend and provide input mostly through written information.
- Evaluator reports recommend special education and related services frequency, location, and duration.
- There is a common misunderstanding that outside evaluation recommendations must be adopted. As a result, PRDE does not have a process for independently reviewing either parentally obtained or other contractual evaluator recommendations, so COMPU typically adopt the results without question. Interviewees expressed desire for a greater level of scrutiny for such reviews and are concerned that the number of eligible students will continue to increase absent this safeguard.
- There are concerns that the CSEEs lack protocol to support appropriate eligibility decisions, and as a result too many students are identified as needing special education. They believe this circumstance may encourage more registration requests and the cycle continues.
- Additional training is needed for all COMPU members to support the review of assessment results and eligibility decision-making.

### Eligibility Decentralization Implications

Without clear guidance and protocols for the eligibility determination process, decentralization may have the effect of increasing special education prevalence. The CSEE experience and concentrated familiarity with relevant processes may have been beneficial.

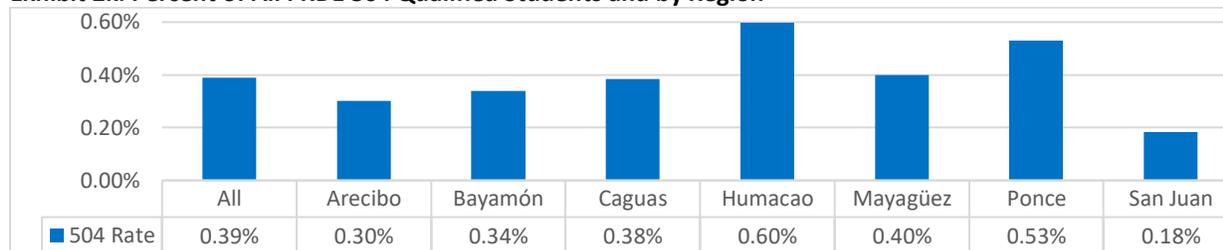
### C. Section 504 Data, Operation, and Decentralization Implications

Students with disabilities but who do not qualify for special education are typically eligible to receive accommodations under Section 504 of the Rehabilitation Act (Section 504 or 504). This civil rights law prohibits discrimination based on disability in any program or activity receiving federal financial assistance. Qualified students have a physical or mental impairment that substantially impacts a major life activity. These students do not need special education instruction to meet eligibility requirements. Instead, they are eligible for related aids/services that include accommodations.

#### Section 504 Data

Based on the most recent 2020-21 U.S. Department of Education’s [Civil Rights Data Collection](#) (CRDC), 3.25 percent of U.S. and Puerto Rico public school students are eligible for reasonable accommodations and services under Section 504. This figure is much higher than PRDE’s 0.39 percent rate. Regional 504 rates varied by 0.41 percentage points. Humacao’s rate (.60%) was highest, and San Juan’s rate (0.18%) was lowest.

**Exhibit 2k. Percent of All PRDE 504 Qualified Students and by Region**



### Interviewee Feedback and Transformation of Special Education Commission Report

Various service providers, such as social workers, psychologists, and nurses, reported working with students receiving Section 504 services. However, many interviewees expressed concern that Section 504 procedures have not been fully developed, and as a result its application has been limited. Interviewees were not aware of the organizational oversight for this area. Similarly, they were not aware of how Section 504 would be implemented at the school level and who would oversee evaluations, eligibility, and service implementation. Also, there was a lack of awareness about accessing funding for services beyond a school’s current capacity. According to a PRDE representative, the creation of a Section 504 funding source is being explored. The Transformation of Special Education Commission report included a recommendation for increased Section 504 implementation.

Concerns were expressed that special education is the first and only option for students experiencing challenges, and there are students who should be receiving services through a Section 504 plan instead of a PEI plan. Some expressed that 504 is not more widely used because parents advocate for special education and school team members “lack the courage” or are unwilling to deny their requests. Insufficient understanding of differences between Section 504 and special education eligibility contributes to this circumstance.

The Special Education Manual addresses Section 504 only when a student is not eligible for IDEA services. Although the Accommodation Manual includes more information about Section 504 reasonable accommodations, there is no information about the process for evaluation and eligibility determination. See, for example, the Chicago Public Schools’ comprehensive [Section 504 Procedural Manual](#) that may be a useful guide.

### **Decentralization Implications**

The information the Council SST received about decentralization plans did not include Section 504 and how – if at all - support for student eligibility, planning, and services would be addressed.

#### **D. Implications for Decentralization**

The Initiative for Decentralization of Education and Autonomy of Regions’ September 30, 2023, report (IDEAR Report) included findings and recommendations and addressed special education processes, beginning with registration and eligibility. Central and regional staff support is essential to back up school personnel as questions and critical issues arise to avoid important compliance slippages, and to reach decentralization’s important goals. Feedback from parents and school staff about issues beyond local control is important to respond quickly and effectively. The greater challenges will be: 1) to have safeguards that ensure registrations are appropriate and eligibility decisions align with established criteria; and 2) to tackle the long-established use of corporate providers for psychologists (68%), speech/language pathologists and therapists (99%), and occupational therapists (99%), while at the same time managing to substantially increase PRDE employment of all personnel involved in evaluations.

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#### **Recommendation 2. Improve registration, evaluation, and eligibility practices.**

The Puerto Rico (PR) percentage of students receiving special education (46%) is 31 percentage points higher than the U.S. rate (15%). PR students are three times more likely than U.S. students to need special education. This exceptionally high reliance on special education is not sustainable nor manageable, and negatively impacts the delivery of specially designed instruction/related services, and Rosa Lydia Vélez compliance.

To address this reality, there must be a broad public reckoning that special education is not the answer for all students with educational challenges and teachers with instructional difficulties.

*Recommendation 1, Spearhead MTSS understanding and implementation to improve academic achievement and social/emotional well-being for all students*, is designed for this purpose. In addition, there must be a recognition that registration, evaluation, and eligibility processes require change, such as those recommended below. Identify a project manager with a direct report to the SAEE to track actions and their status.

**a. Core Team**

Have a reasonably sized cross-cutting group of persons (regular/special education and related services representatives; SEA, LEA, school levels; stakeholder representatives, and data technician) to consider the issues identified below, as well as others the core team identifies. Have the group develop a brief report of their work and forward it to the SAEE for review and approval.

- **Data review.** Have the group review the data/exhibits listed in this report and others they request to identify outlier elements and root cause hypotheses for areas of concern and needing follow-up action. Report a summary of findings to the SAEE and senior leadership team.
- **Specific issues.** Provide follow-up action to address the following –
  - **Outside evaluations.** Have knowledgeable personnel review parentally obtained outside evaluations to judge their conclusions and any need for an evaluation by PRDE personnel.

**Large rate disparities.** Based on the hypotheses of root causes, identify staff with high expertise [or possibly use outside consultant(s)] to review a small sample of student records and discuss with knowledgeable regional personnel possible reasons for the disparities.

- **Registration based on suspicion of disability.** Review IDEA [34 CFR §300.503(a), PRDE’s [Prior Written Notice Form](#), other relevant information, and interview individuals with any contrary evidence about this issue. After a thorough discussion, recommend appropriate action for the SAEE’s consideration, including screening protocol for school personnel to document disability suspicion and supporting information necessary to guide registration decision-making.
- **COMPU facilitation.** Develop and use PEI Facilitation that many SEAs sponsor for independent facilitators to develop COMPU consensus. See [About IEP Facilitation](#) and [State-Sponsored IEP Facilitation](#) for examples.
- **Private evaluators and off-site evaluations.** Review information from the report and other available from core team members and others. Consider potential actions for the SEA and LEAs to recruit/hire a larger number of evaluation personnel to reduce reliance on outside evaluators and to have evaluations conducted at students’

schools, except for unique assessments. This action would eliminate any potential bias associated with assessors who recommend PEI services provided by assessors' corporations. It would also decrease the amount of class time students miss and reliance on transportation.

- **Use of psychologists.** After reviewing CGCS report data for psychologists, information about their support for students without disabilities, and other information, consider the process for determining if their current number is sufficient to conduct school-based assessments with changes in their duties that do not require PEI-associated changes. Also consider recruitment efforts or itinerant assignments for students at schools in hard-to-reach locations.
- **School-based eligibility meetings.** Consider participants currently required to participate in special education eligibility meetings and the extent to which they include individuals, including students' teachers, who have the expertise and knowledge necessary to critically review evaluation reports (especially those from outside providers) and to make eligibility decisions. In addition, based on this review, suggest actions for further consideration.
- **Eligibility protocol.** Consider a process that can be used to develop protocol by disability area to support appropriate eligibility decision-making. See, for example, [Louisiana Department of Education](#) criteria.
- **Section 504.** Consider Puerto Rico's proportionately low rate of students receiving services under Section 504 compared to other districts across the U.S. Also, consider how Section 504 is managed at the SEA, LEA, and school levels and establish processes improve management and identification practices for potentially eligible students to better receive services under this Act. Also, establish communication channels to better inform LEA and school personnel about this service avenue.

#### b. SEA Action Plan

With the core team identified above, along with others with information to offer, develop an action plan to follow up on the SAAE's approval of the core team's considerations. As part of the SEA plan include activities for the following areas –

- Templates, with LEA/school input, for LEA/school planning along with guidance for local adaptation.
- Written guidance, e.g., see the Chicago Public Schools' [Section 504 Procedural Manual](#).
- Professional learning.
- Human/material resources.

- Monitoring registration, evaluation, disability area and 504 rates, and overall eligibility rates (by region only) to identify any spikes or noncompliance generally and those possibly associated with decentralization. Have a process for the SEA to monitor regional data and LEAs to monitor school data to intervene as necessary.
- LEA, region, and stakeholder feedback loops draft template for region and school-based analysis and action planning.

**c. LEA Core Team and Action Plans**

With a cross-cutting LEA team having representatives such as those on the SEA team, review LEA data overall to benchmark with school outcomes. With data disaggregated by school identify those with any concerning disparities. Based on the LEA team's analysis, using the SEA template draft an action plan that identifies the most common issues for all schools to identify need for additional written guidance, training, assistance, and follow-up monitoring. For individual schools with outlier data, support their action planning for targeted areas per below.

**d. School Core Teams and Action Plans**

With a cross-cutting school team having representatives such as those on the LEA team, use the template to plan actions designed to improve outcomes for each relevant area. Identify outlier data and other information especially relevant for planning. Notify the LEA about training needs and use school staff to the extent available and knowledgeable to support school-based training.

### III. DATA ASSOCIATED WITH ACHIEVEMENT OF STUDENTS WITH DISABILITIES

This section presents achievement and associated data for students with PEIs. The Council SST collected data from PRDE and the federally required state performance plan (SPP) with measures for students with PEIs for the following areas.

- A. Outcomes for Children 3 through 5 Years of Age
- B. Achievement Related Data for School-Aged Students
- C. Graduation and Dropout Rates
- D. Postsecondary School Outcomes
- E. Out-of-School Suspensions
- F. Educational Environments for (3 through 5 Years of Age)
- G. Educational Environments (6 through 21 Years of Age)

#### A. Outcomes for Children 3 through 5 Years of Age

One SPP indicator involves the achievement of young children with disabilities between three and five years of age. The indicator has three components: 1) appropriate behavior; 2) acquisition/use of knowledge/skills; and 3) positive social/emotional skills. For each component, calculations are made of the percentage of children in two areas:

- Children **functioning within age expectations** by age six or who attained those expectations by the time they exit early childhood (EC).
- Children **with substantially increased skills** who entered an early-childhood program below developmental expectation for their age but substantially increased developmentally by age six when exited EC with substantially increased skills.

These outcomes provide a consistent measure to assess the extent to which young children are on track to perform within age expectations in kindergarten and/or substantially increasing developmentally. Note that this latest available SPP data applied to the 2021-22 school year, the first full year schools reopened for in-class learning following the pandemic. PRDE data, including data by regions/schools for the 2022-23 and 2023-24 school years would be useful to assess these outcomes and to inform teaching/learning for the upcoming school year.

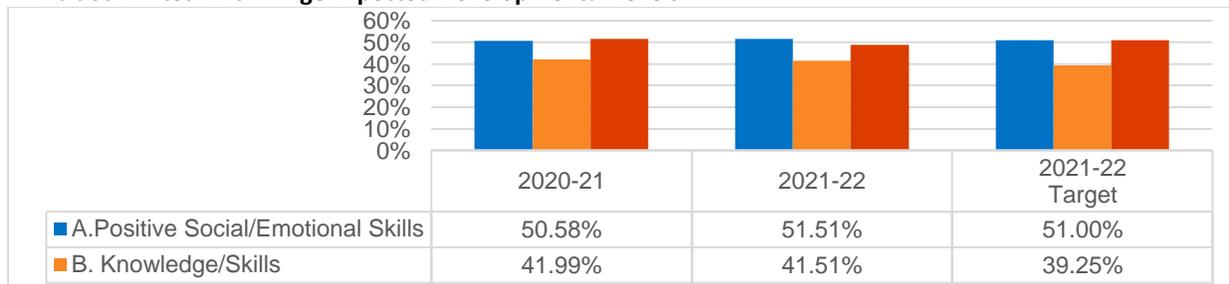
#### 1. Exited Within Age Expected Development

Data in *Exhibit 3a. Exited Within Age Expected Developmental Levels* shows that from 2020-21 to 2021-22 outcomes increased for appropriate behavior [by .93 percentage points (pp)] and decreased for knowledge/skills (by -4.8pp) and positive social/emotional skills (by 2.63 pp). Below are 2021-22 rates for students who reached standards and their gaps with PRDE targets.

- **Positive Social/Emotional Skills.** 51.51 percent met standards (0.51pp above target).

- **Acquisition/Use of Knowledge/Skills.** 41.51 percent met standards (2.26pp above target).
- **Appropriate Behavior.** 48.81 percent met standards (2.19pp below target).

Exhibit 3a. Exited Within Age Expected Developmental Levels

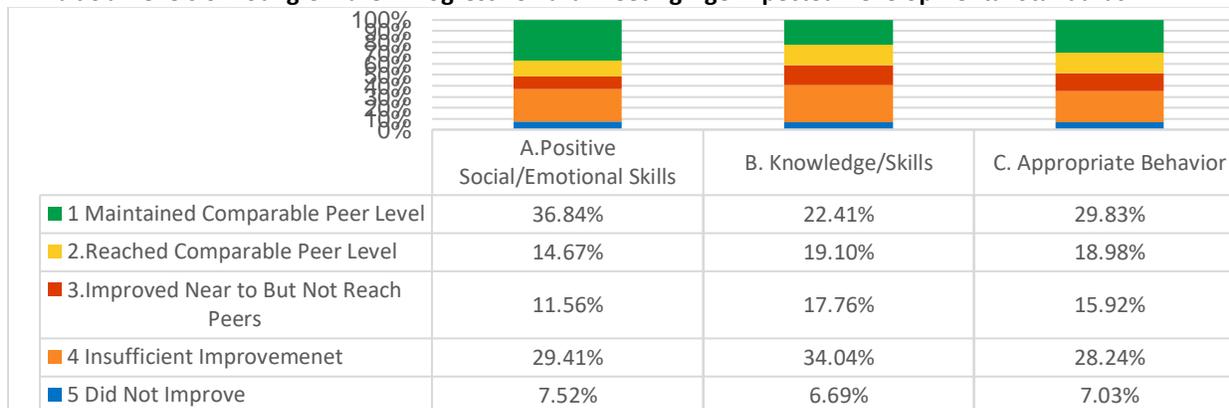


### Level of Functioning Improvement

The SPP also measures with five levels the extent to which young children entered below expectations for their age, but their functioning level improved by age six when exiting EC. The three lowest levels are: 1) did not improve; 2) improved but insufficiently; and 3) improved nearer to same-aged peers but did not reach them to maintain a level comparable to same-aged peers. The highest two levels are: 4) reached level; and 5) maintained level comparable to same-aged peers together comprise the overall rates reported above in *Exhibit 3a. Exited Within Age Expected Developmental Levels*.

Of the three lowest levels, the one closest to reaching comparable peer level (3. improved near to but not reaching peers) had lower outcome rates than the next lower level (4. Insufficient improvement). Rates of less than 7.6 percent applied to the three outcome areas for children who did not improve.

Exhibit 3b. Levels of Young Children Progress Toward Meeting Age Expected Developmental Standards

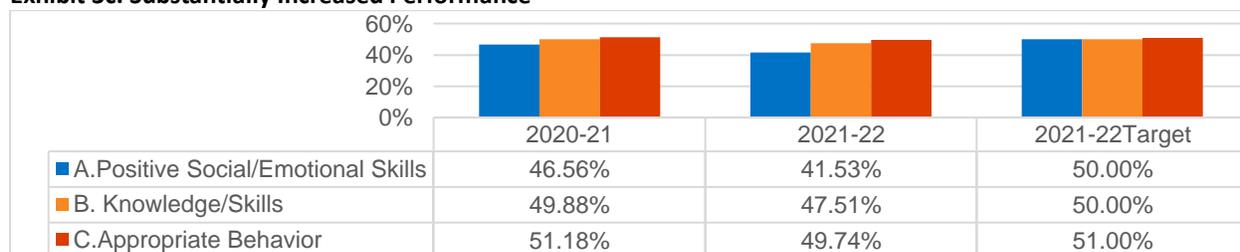


## 2. Substantially Increased Performance

Data in *Exhibit 3c. Substantially Increased Performance* shows from 2020-21 to 2022-23 outcomes decreased in all three measured areas: positive social/emotional skills (by -5.03pp), knowledge/skills (by -2.37pp), and use of appropriate behavior (by -1.44pp). Below are 2021-22 rates for students who reached standards and their gaps with PRDE targets.

- **Positive Social/Emotional Skills.** 41.53 percent met standards (-8.47pp below target).
- **Acquisition/Use of Knowledge/Skills.** 47.51 percent met standards (-2.49pp below target).
- **Appropriate Behavior.** 49.74 percent met standards (-1.26pp below target).

Exhibit 3c. Substantially Increased Performance



## B. Achievement Related Data for School-Aged Students

Data below shows PRDE achievement and associated rates for the following areas –

1. Reading Achievement
2. Math Achievement
3. Alternate Assessment Participation
4. SPP Graduation/Dropout Outcomes and Targets

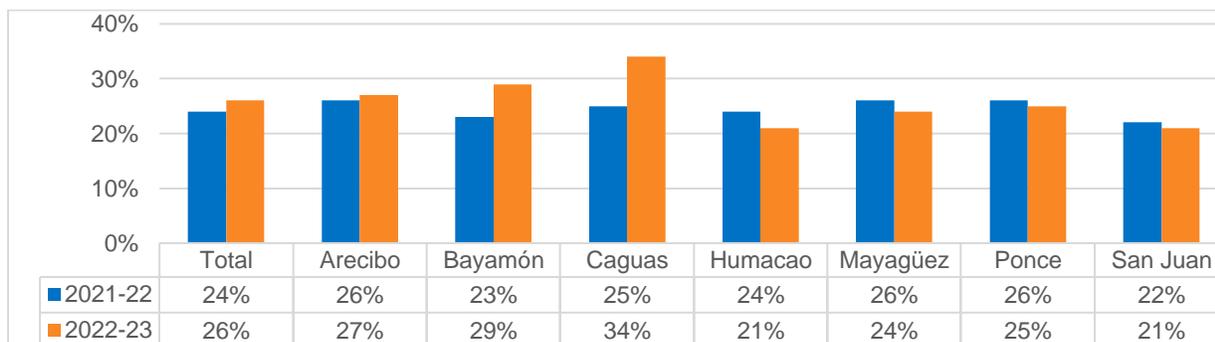
### 1. Reading Achievement

Data in *Exhibit 3d. Students with PEIs Having Proficient/Above Reading Rates* that PRDE reported to the Council SST compares outcomes for all students and by region. Overall, the rate for 2022-23, 26 percent, for students with PEIs was higher than the prior year rate (by 2pp).

- **Region rates** for 2022-23 ranged from Caguas’ highest rate (34%) to Humacao and San Juan’s lowest rates (each 21%).
- **Three regions had higher 2022-23 rates than the prior year:** Caguas (25% to 34%), Bayamón (23% to 29%), and Arecibo (26% to 27%). The remaining four regions with 2021-22 to 2022-23 rates were Humacao (24% to 21%), Mayagüez (26% to 24%), Ponce (26% to 25%), and San Juan (22% to 21%).

Exhibit 3d. Students with PEIs Having Proficient/Above Reading Rates

**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**



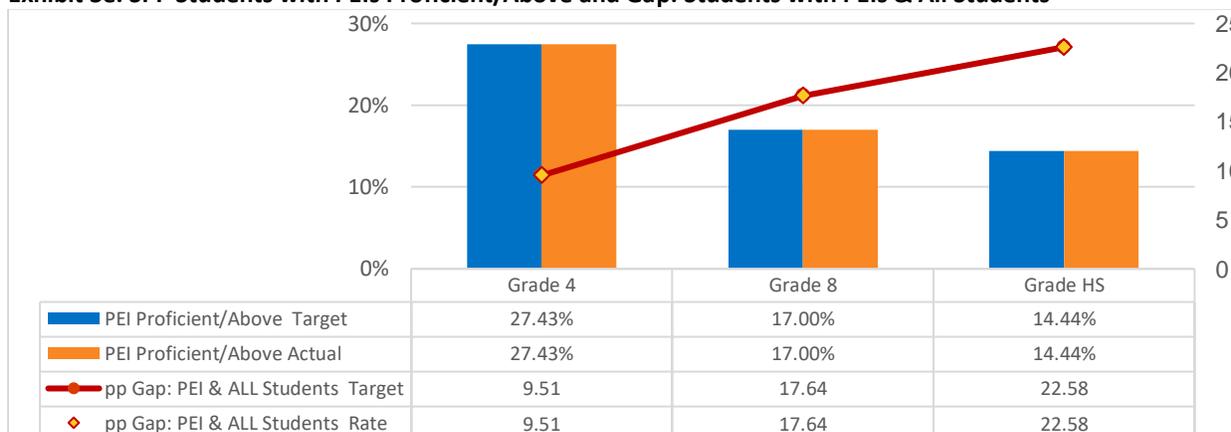
**SPP Reading Proficient/Above Rates for Grades 3, 4, and High School (2021-22)**

Data in *Exhibit 3e*. shows PEI proficient/above rates for grades 3 and 4, and high school, and associated PRDE targets. They also show percentage point gaps between PEI and all students based on targets and rate outcomes.

- **PEI Proficient/Above Rates and Targets.** Reading rates for grades 4 (27.43%), 8 (17.00%), and high school (14.44%) met their respective SPP targets. The SPP/Annual Progress Report for FFY 2021 explained that PRDE had set baselines and targets by grade for the first time for that fiscal year. However, future target year rates for PEI proficient/above rates would increase only slightly by 2025-26: grade 4 (by 0.27pp), grade 8 (by 0.30pp), and high school (by 0.16pp).
- **Percentage Point Gap Between PEI and All Student Proficient/Above Rates and Between PEI and All Student Targets.** As shown in Exhibit 3e, there were no rate gaps between these two targets for grades 4 and 8, and high school. Targets were the same as gaps between students with PEIs and all students. Gaps were the following: grade 4 (9.51 pp), grade 8 (17.64), and high school (22.58pp). By 2025-26 The future gap target rates would decrease by small amounts: grade 4 (by -0.11), gap grade 8 (by -0.14) and high school (by -0.13).

We question whether the very small reading gap target decreases from 2021-22 to 2024-25 are reasonably ambitious, and we would encourage internal stretch goals in these areas.

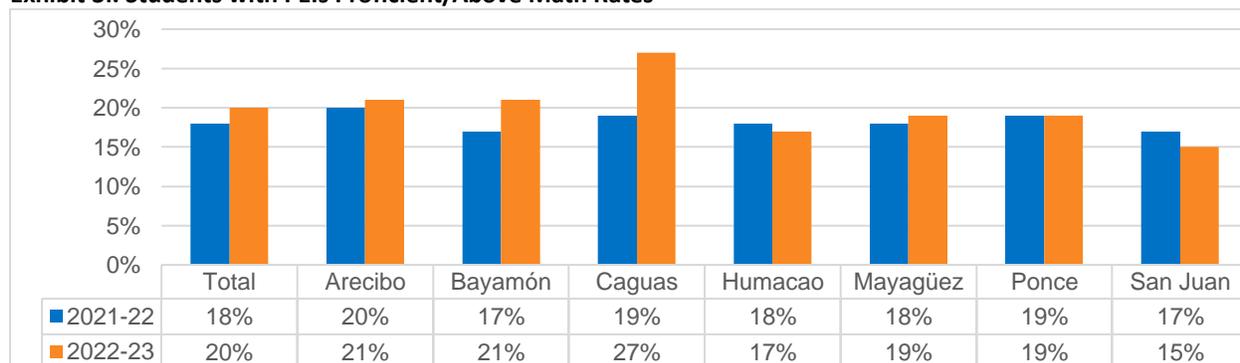
**Exhibit 3e. SPP Students with PEIs Proficient/Above and Gap: Students with PEIs & All Students**



## 2. Math Achievement

Data in *Exhibit 3f. Students with PEIs Having Proficient/Above Math Rates* that PRDE reported to the Council SST compares outcomes for all students and by region. Overall, 2022-23's rate of 20 percent for students with PEIs was higher than the prior year rate (by 2pp). Region rates for 2022-23 ranged from Caguas' highest rate (27%) to San Juan's lowest rate (15%). Four regions had higher 2022-23 rates than the prior year. Caguas' notable increase (27% to 19%) was followed by Arecibo (21% to 20%), Bayamón (21% to 17%), and Mayagüez (19% to 18). Ponce's rate was the same. The remaining two regions are Humacao (17% and 18%), and San Juan (15% and 17%).

**Exhibit 3f. Students with PEIs Proficient/Above Math Rates**



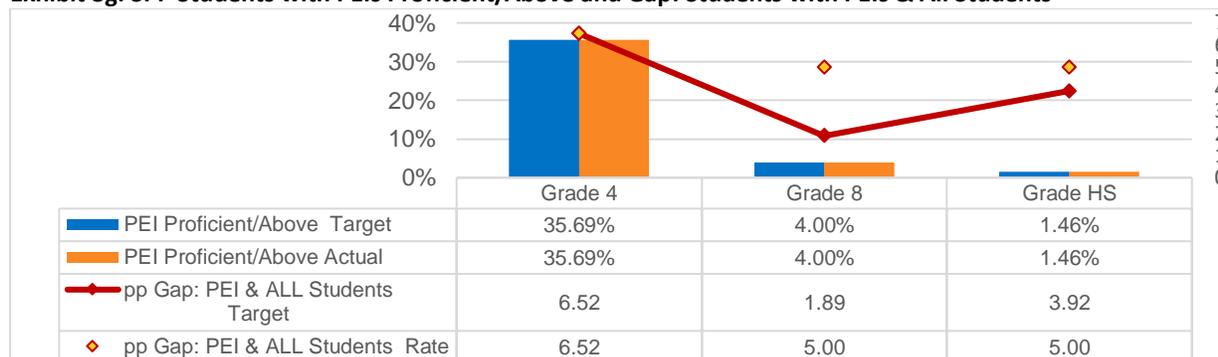
### SPP Math Proficient/Above Rates for Grades 3, 4, and High School (2021-22)

Data in *Exhibit 3g* show PEI proficient/above rates for grades 3 and 4, and high school, and associated PRDE targets. They also show percentage point gaps between PEI and all students based on targets and rate outcomes.

- PEI Proficient/Above Rates and Targets.** Math rates for grades 4 (35.69%), 8 (4.0%), and high school (1.46%) also met their respective SPP targets. Although the grade 4 rate was higher than the reading rate (27.43%), grade 8 and high school rates were much lower than reading rates (17.00% and 14.44%, respectively). Future target year rates would increase only slightly by 2025-26: grade 4 (by 0.27pp), grade 8 (by 0.30pp), and high school (by 0.16pp).
- Percentage Point Gap Between PEI and All Student Proficient/Above Rates and Between PEI and All Student Targets.** Grade 4 rate gaps were the same for PEI and all student target rates, and for PEI and all student proficient/above rates (6.52pp each). Gaps were different between PEI and all student targets for grade 8 (1.89pp and 5.00pp, respectively), and for high school (3.92pp and 5.00pp, respectively). By 2024-25 the gap target rate for grade 4 would decrease slightly (by -0.02) and would decrease further for grade 8 (by -3.12) and for high school (by -1.09).

We also question whether the small math targets for gap decreases from 2021-22 to 2025-26 are reasonably ambitious and encourage stretch goals.

**Exhibit 3g. SPP Students with PEIs Proficient/Above and Gap: Students with PEIs & All Students**

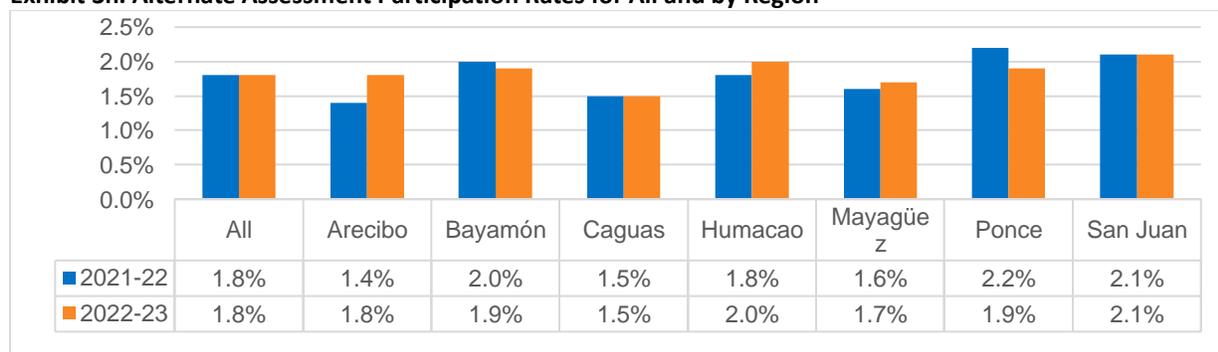


### 3. Alternate Assessment Participation

Under the federal Every Student Succeeds Act (ESSA), state participation of students on alternate assessments must not exceed one percent of all students in grades of assessments and within each subject area. Data in *Exhibit 3h. Alternate Assessment Participation Rates for All and by Region* provided by PRDE shows an overall participation rate of 1.8 percent, which is above the all-student maximum requirement.

Regional 2022-23 data showed San Juan had the highest participation rate (2.1%) and Caguas had the lowest rate (1.5%). Two regions had smaller rates from 2021-22 to 2022-23: Bayamón (2.0% to 1.9%) and Ponce (2.2% to 1.9%). Two regions had rates that did not change: Caguas (1.5%) and San Juan (2.1%). The remaining three regions' rates increased: Arecibo (1.4% to 1.8%), Humacao (1.8% to 2.0%), and Mayagüez (1.6% to 1.7%).

**Exhibit 3h. Alternate Assessment Participation Rates for All and by Region**



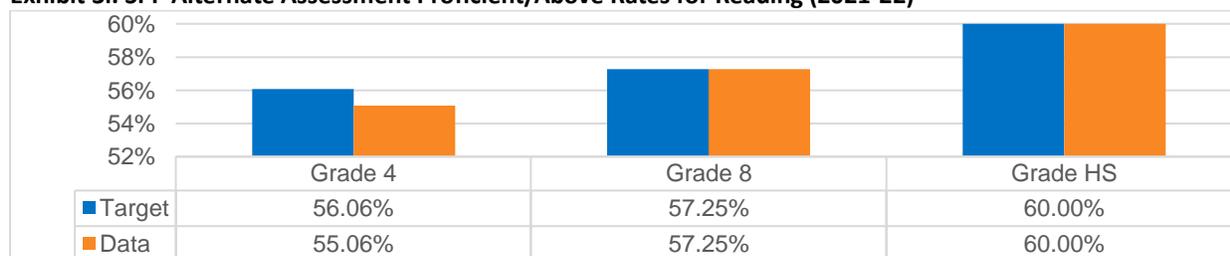
### 4. SPP Alternate Assessment Reading & Math Achievement Data

The information below provides PRDE alternate assessment achievement rates at the proficient/above level for reading and math based on SPP data for 2021-22.

### Reading

Data in *Exhibit 3i. Alternate Assessment Proficient/Above Rates for Reading (2021-22)* show relatively high outcomes at grades 4 (55.00%) and 8 (57.25%), and high school (60.00%). Each rate met associated targets. The 2022-22 SPP reported the following target percentage point increases from 2021-22 to 2025-26: grade 4 (0.14pp), grade 8 (0.15pp) and high school (0.10pp)

**Exhibit 3i. SPP Alternate Assessment Proficient/Above Rates for Reading (2021-22)**

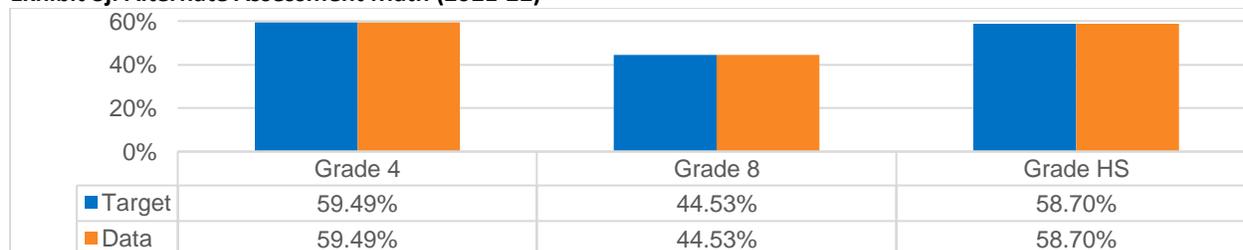


### Math

Data in *Exhibit 3j. Alternate Assessment Proficient/Above Rates for Math* also shows relatively high outcomes at grades 4 (59.49%) and 8 (44.53%), and high school (58.70%). Each rate also met associated targets.

The 2022-22 SPP reported the following target percentage point increases from 2021-22 to 2025-26: grade 4 (0.11pp), grade 8 (0.12pp) and high school (0.10pp).

**Exhibit 3j. Alternate Assessment Math (2021-22)**



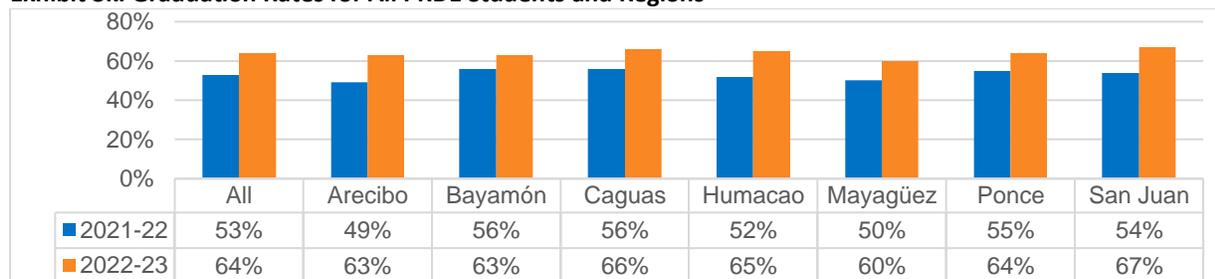
## C. Graduation and Dropout Rates

Data regarding graduation and dropout rates for students with PEIs are addressed below. PRDE rates for the 2022-23 school year were not final for the Federal 618 report when they were shared with the Council SST.

### 1. PRDE Reported Graduation Rates

*Exhibit 3k. Graduation Rates for All PRDE Students and Regions* data show 2022-23 rates for all students were higher than for the prior school year (64% to 53%). All regional 2022-23 rates were higher than the prior year, ranging from San Juan’s highest rate (67%) to Mayagüez’s lowest rate (60%). Arecibo earned the largest increase (14pp) and Bayamón had the smallest increase (7pp).

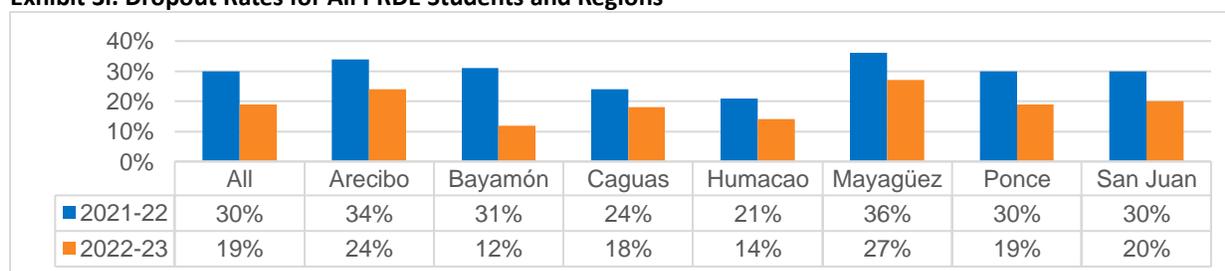
**Exhibit 3k. Graduation Rates for All PRDE Students and Regions**



## 2. PRDE Reported Dropout Rates

Exhibit 3l. Dropout Rates for All PRDE Students and Regions data show 2022-23 rates for all students were lower than for the prior school year (30% to 19%). All regions 2022-23 rates were lower. Bayamón’s rate was lowest (12%) and Mayagüez’s rate was highest (27%). Bayamón had the largest decrease (-19pp) and Humacao had the smallest decrease (-7pp).

**Exhibit 3l. Dropout Rates for All PRDE Students and Regions**

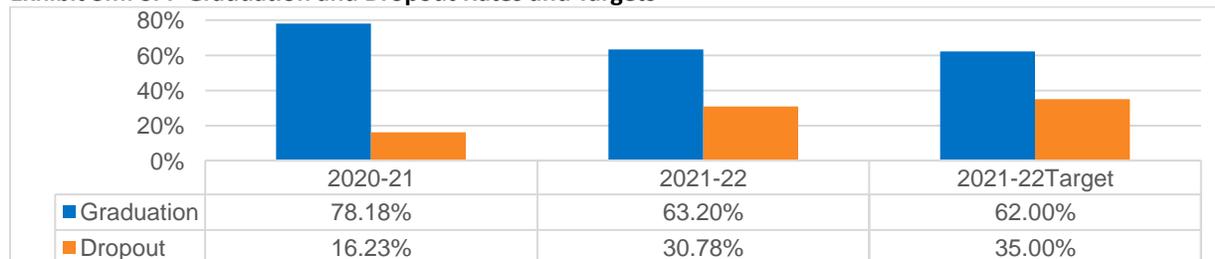


## 3. SPP/APR Graduation and Dropout Outcomes and Targets

The SPP/APR reported lower 2021-22 graduation rates compared to 2020-21 (63.20% to 78.18%). The latter year’s rate was below target (62.00%). By 2025-26 the graduation targets will increase to 67 percent.

The 2021-22 dropout rate was higher than the prior year (30.78% to 16.23%). By 2025-26 the dropout target will decrease to 33 percent.

**Exhibit 3m. SPP Graduation and Dropout Rates and Targets**



The SPP/APR explained that economic factors and challenges during prior years significantly increased dropout rates between 2010-11 and 2012-23 (41.59%, 43.36%, and 44.81%, respectively). PRDE explained that these circumstances were being felt again, and as anticipated rates increased after the COVID-19 pandemic's onset and upon returning to in-person learning in 2021-2022. Student dropout reasons varied from a need to work for economic independence or lack of resources, to school apathy or desire for less rigorous academic challenges. Many students enrolled in alternative programs for educational and training that may allow them to enroll in universities and/or find jobs.

In light of these considerations, after closely monitoring exiting data and analyzing historic data and trends, PRDE stakeholders decreased dropout targets. They “emphasized that establishing targets is more than just identifying a goal, but that targets are a metric that we want to, and believe we can, achieve.” The statement also mentioned that meaningful targets should be realistic and attainable while aiming to improve outcomes and results each year.

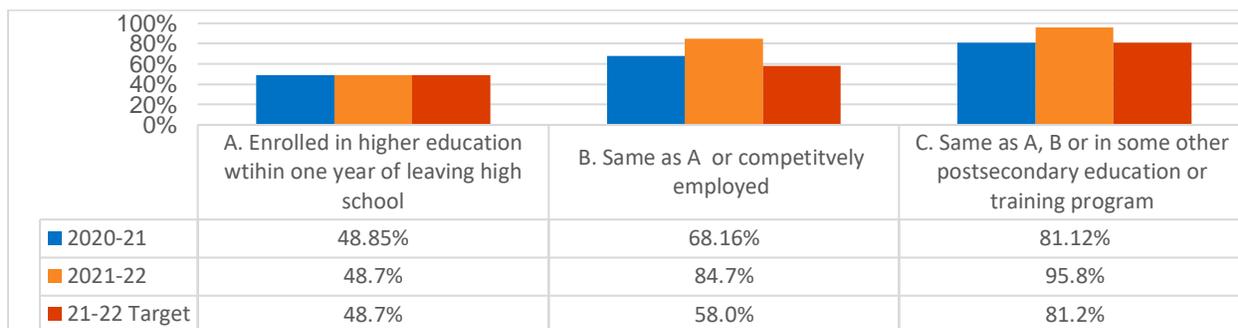
The SPP measured the 2021-22 high dropout out rate (30.78%) against a new target (35.00%), with decreases of 2 percentage points over five school years. This does not appear to be reasonably ambitious. Perhaps, PRDE's February 2024 SPP/APR (unpublished at the time of our review) adjusted these targets considering its 2021-22 rate exceeded that year's target.

#### D. Postsecondary School Outcomes

*Exhibit 3n. Outcomes One Year Post High School for Students who Had PEIs* data show the following outcomes. 2021-22 criteria rates exceeded those from the prior school year except for higher education enrollment's rate that fell slightly. All criteria met or exceeded their associated SPP targets. It is notable that 2025-26 targets were met in 2021-22. We anticipate the unpublished February 2024 SPP/APR targets increased.

- A. Enrolled in Higher Education.** 2021-20's rate (48.7%) met its target and was slightly below the prior year rate (by -0.16pp).
- B. Criterion A or Competitively Employed.** 2021-20's rate (84.7%) was higher than the prior year (by 16.54pp) and exceeded the target (by 26.7pp).
- C. Criterion A, B or In Some Other Postsecondary Education or Training Program.** 2021-20's rate (95.8%) was higher than the prior year (by 14.71pp) and exceeded the target (by 15.6pp).

**Exhibit 3n. Outcomes One Year Post High School for Students who Had PEIs**



The SPP/APR reported a fairly low response rate for 2020-21 (55.75%) and a lower rate for 2021-22 (48.06%). PRDE wrote it would closely monitor responses for progress at regular intervals and use multiple forms of follow-up to improve the response rate. These actions are reasonable. Note that the low responses may disproportionately reflect former students who were involved in the surveyed activities and wanted to share. This may reflect the high engagement outcomes. Given the importance of this postschool activity it is important for PRDE (by regions) to interact with unresponsive former students to assess their engagement,

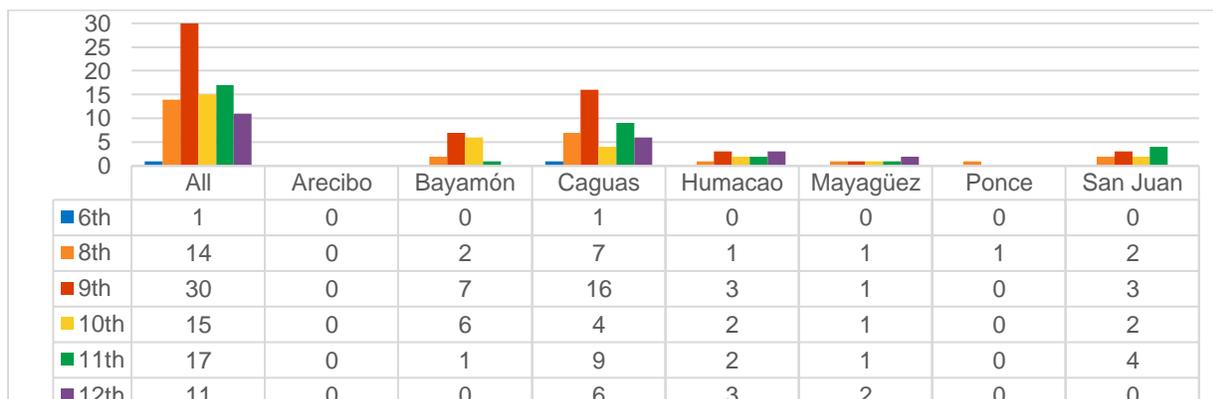
### E. Suspensions

PRDE shared with the Council SST 2022-23 figures for out-of-school suspensions (OSS) for SwDs. The agency’s representative noted this data was not final as Federal 618 data is submitted on a later date. The figures excluded hearing officer removals, in-school suspensions, and school removals to interim alternative educational settings associated with several serious offenses. Overall, only 88 students received an OSS during the school year. The Council SST’s collective experience rarely observes data reflecting such a low usage of suspensions. Assuming that this data is accurately reported, this practice is commendable.

#### OSSs by Grade for All Students and by Region

Overall, *Exhibit 3o. OSS Numbers by Grade for all PRDE Students and Regions* data show school personnel do not typically use OSSs to address SwDs’ noncompliance with conduct rules. At the all-student level, only 88 OSSs were reported. Except for one OSS at sixth grade, the remaining occurred at grades 8 through 12 and the number of students ranged from 11 (twelfth grade) to 30 (ninth grade).

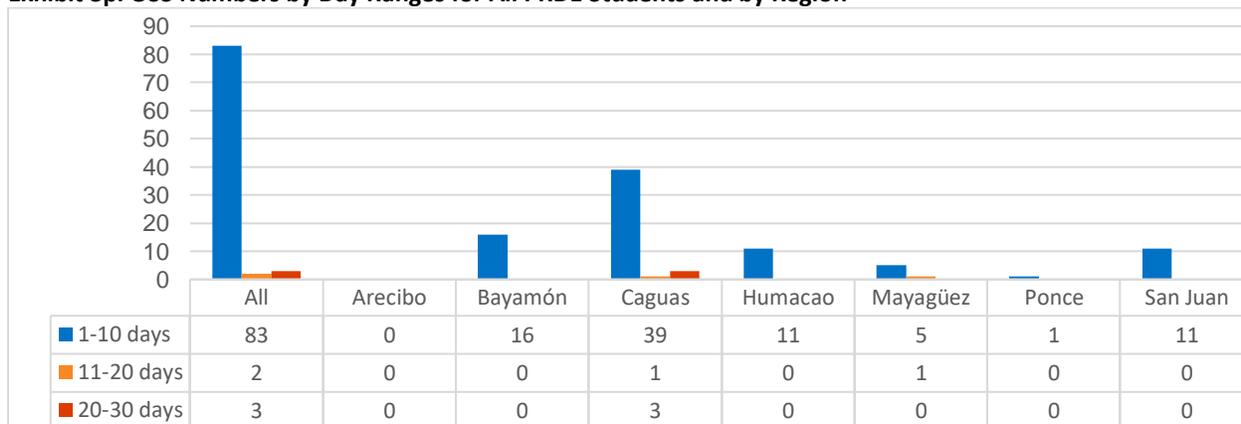
#### Exhibit 3o. OSS Numbers by Grade for All PRDE Students and Regions



### OSSs by Day Ranges for All Students and by Region

Exhibit 3p. OSS Numbers by Day Ranges for All PRDE Students and by Region data show that for all students almost all OSSs are for 1 to 10 days (83), and very few are for 11-20 days (2) and 20-30 days (3). No OSSs were reported for Arecibo and only one for Ponce. For the remaining regions, the number of OSSs for 1 to 10 days ranged from 6 students (Mayagüez) to 39 students (Caguas). Two regions each reported having 1 student suspended for 11-20 days and only Caguas reported OSSs of 20 to 30 days (3 students).

Exhibit 3p. OSS Numbers by Day Ranges for All PRDE Students and by Region



## F. Educational Environments (3-5 Years of Age)

Overall, most Puerto Rico SwDs educated in public schools receive instruction in EC classes along with their typical peers. Data reported by PRDE and in the SPP/APR are discussed below.

### 1. PRDE and U.S. Educational Environment Rates

Exhibit 3q. Educational Environment Rates for Children 3 to 5 Years of Age for PRDE and the U.S. data for 2022-23 are shown and addressed below.

Exhibit 3q. Educational Environment Rates for Children 3 to 5 Years of Age for PRDE and the U.S.

	U.S.	PR	Arecibo	Bayamón	Caguas	Humacao	Mayagüez	Ponce	San Juan
Separate School/Residential	2.35%								
Separate Class	28%	0.38%	0.00%	0.59%	0.00%	0.00%	0.00%	1.63%	0.46%
Majority Services at Home	2.89%	3.0%	5.3%	2.4%	1.3%	1.7%	2.2%	5.6%	2.4%
Majority Services At Provider/Other Location	22%	14%	12%	20%	10%	12%	18%	17%	6%
Majority Services in Regular EC	42%	83%	82%	77%	89%	87%	80%	76%	91%

- Majority of Services in Regular EC.** PR public school students receive the majority of services in regular EC classes at a rate almost twice as high (83%) as the U.S. [rate](#) (42%). Regional rates ranged from Caguas’s highest (89%) to Bayamón’s (77%) and Ponce’s (76%) lowest. Yet even the lowest rate was 34 percentage points above the average U.S. rate.
- Majority of Services at Provider/Other Location.** PRDE had a lower rate (14%) for young children receiving the majority of services at a provider or other location than the U.S. (22%). Regional rates ranged from Bayamón’s highest (20%) to San Juan’s (6%) lowest.
- Majority of Services at Home.** PRDE’s rate (2.89%) was slightly smaller than the U.S. (3.0). Regional rates ranged from Arecibo’s (5.3%) and Ponce’s (5.6) highest to Humacao’s (1.7%) and Caguas’ (1.3%) lowest.
- Separate Class, Separate School, and Residential.** Compared to a relatively high U.S. rate (28%), almost no PR young children are educated in separate classes (0.38%). Regional rates ranged from 0 percent for four regions (Arecibo, Caguas, Humacao, and Mayagüez) to Ponce’s highest rate (1.63%). With a U.S. relatively high rate (2.35%), no PR children for separate school or residential facility settings.

## 2. SPP Rates

Exhibit 3r. SPP Educational Environment Rates for Young Children data show the following –

- Majority of Services in Regular EC.** High rates were reported for both 2020-21 and 2021-22 (81.58% and 81.35%, respectively). The latter year’s rate exceeded the minimum SPP target (79.50%).
- Separate Class, School, or Residential.** The 2021-22 rate (0.31%) was slightly higher than the prior year (0.25%), but the latter year was almost half smaller than its maximum SPP target (0.60%).
- Home.** The 2021-22 rate (2.11%) was higher than the prior year (0.40%) and exceeded its maximum SPP target (0.70%).

The SPP/APR explained PRDE found it difficult to identify a definitive reason for rate slippages.

The report suggested that it may be related to the pandemic, including an increased interest in home services for youngest students. PRDE planned to closely monitor and discuss the data with stakeholders, including consideration of whether targets should be revised.

Exhibit 3r. SPP Educational Environment Rates for Young Children



### G. Educational Environments (6-21 Years of Age)

Compared to the U.S., PR educates a larger proportion of school-aged SwDs in regular classes at least 80 percent of the time and relatively few students in more restrictive environments. Proportions change when disaggregating data by region and by age.

#### 1. General Education Settings for U.S., PRDE, and Regions

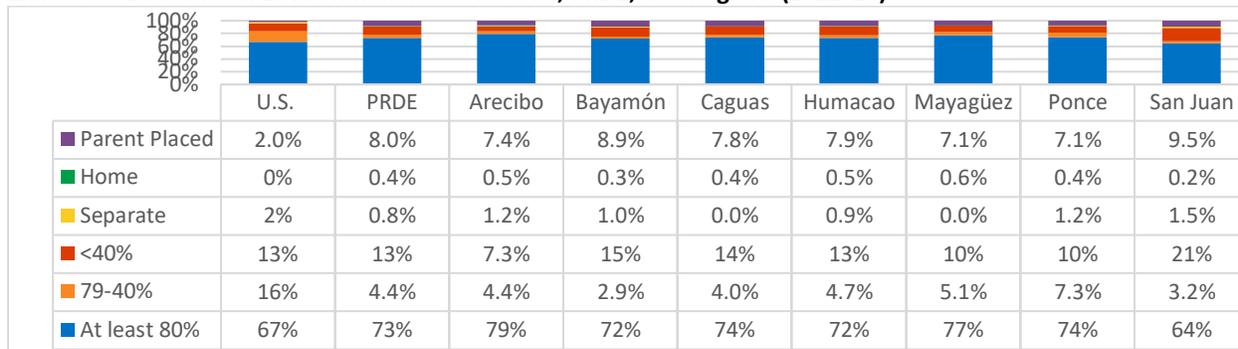
Exhibit 3s. Educational Environment Rates for U.S., PRDE, and Regions (2022-23).

- General Education 100% to 80% of Time.** The PRDE student rate (79%) for this setting was higher than the [U.S. rate](#) (67%). The PRDE rate exceeded the 2022-23 SPP/APR maximum target (67.85%). Regional rates ranged from 79 percent (Arecibo) to 64 percent (San Juan), a 15-percentage point gap.
- General Education 79% to 40% of Time.** The PRDE rate (4.4%) for this setting was 8.6 percentage points smaller than the U.S. rate (13%). The U.S. Department of Education does not require an SPP target for this setting. Regional rates ranged from 7.3 percent (Ponce) to 2.9 percent (Bayamón), a 4.4 percentage point gap.
  - The very small rate of students for this setting merits review. For example, using a 7-hour school day as an example, students would spend at least 5.6 hours in general education classes for the most inclusive setting (at least 80%). For the next more restrictive setting (79% to 40%), the amount of general education time would range from 5.5 hours to 2.8 hours. It is unclear why this setting is underused for students who might benefit from special education instruction for a small portion of additional time.
- General Education Less than 40% of Time.** PRDE and U.S. rates were the same (13%) for this setting. The PRDE rate exceeded the 2022-23 maximum SPP/APR target (9.55%). Regional rates ranged from 21 percent (San Juan) to 7.3 percent (Arecibo), a 13.7 percentage point gap.

gap.

- **Separate Schools, Residential, and Homebound.** The PRDE rate (0.8%) was smaller than the U.S. rate (2%), and below the SPP/APR maximum target (2.3%). Regional rates ranged from 1.5 percent (San Juan) to 0.0 percent (Caguas and Mayagüez).
- **Parent Placement.** The PRDE rate (8.0%) for this setting was four times higher than the U.S. rate. Regional rates ranged from 9.5 percent (San Juan) to 7.1 percent (Mayagüez and Ponce).

Exhibit 3s. Educational Environment Rates for U.S., PRDE, and Regions (2022-23)



## 2. General Education Settings for All 6-17- and 18–21-Year-Old Students by Region

PRDE reported rates for students educated in general education classes varied significantly for students 6 to 17 years of age compared to those 18 to 21 years of age when they typically remain in school to receive secondary transition services. Data for these two groups of students are shown below by region.

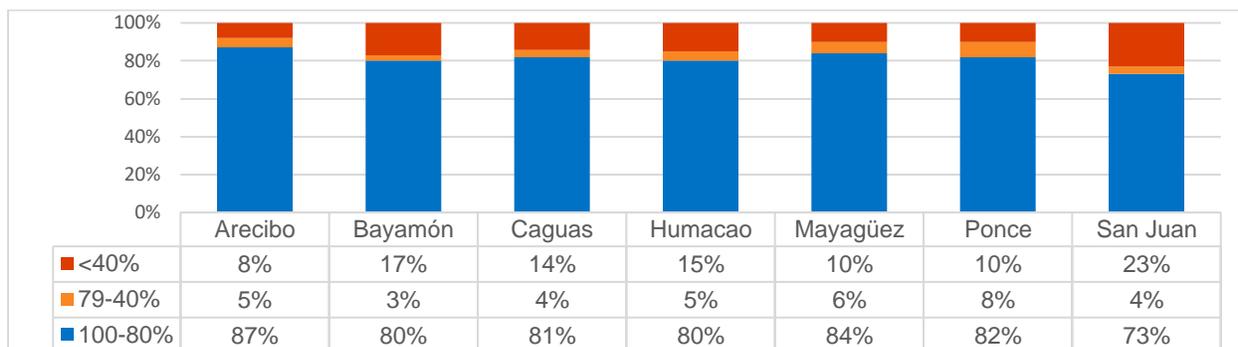
### Regional Averages for All Students 6-17 Years of Age

For this student age group, high rates reflected students in general education classes at least 80% of the time. *Exhibit 3t. Educational Environment Rates by Region for SwDs Aged 6-17 Years* data show the following –

- **100% to 80% of Time.** Arecibo’s rate (87%) was highest, and San Juan’s rate (73%) was the lowest, with a 14-percentage point gap.
- **79% to 40% of Time.** Ponce’s rate (8%) was highest and Bayamón’s rate (3%) was lowest, with a 5-percentage points gap.
- **Less than 40% of Time.** San Juan’s rate was highest (23%), and Arecibo’s was lowest (8%), with a 15-percentage point gap.

Exhibit 3t. Educational Environment Rates by Region for SwDs Aged 6-17 Years

**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**



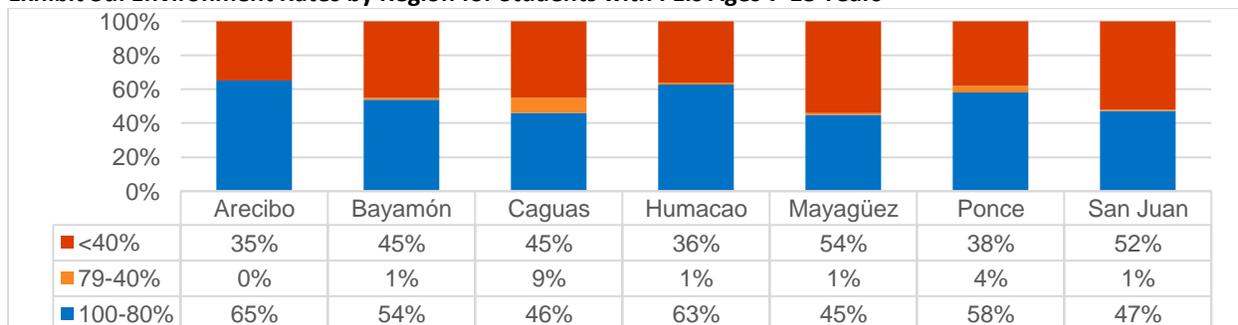
**Regional Averages for All Students 18-21 Years of Age**

The proportion of education settings are more restrictive for students 18 to 21 years of age compared to the younger students. In the Council SST’s experience this circumstance is not unusual because students typically remain in school to receive secondary transition services.

*Exhibit 3u. Environment Rates by Region for Students with PEIs Ages 7-18 Years* shows the following rate variances –

- **100% to 80% of Time.** Arecibo’s rate (65%) was highest and Mayagüez’s rate (45%) was lowest, with a 20-percentage point gap.
- **79% to 40% of Time.** Caguas’s rate (9%) was highest, and Arecibo’s rate (0%) was lowest, with a 9-percentage point gap. These very low rates merit future review.
- **Less than 40% of Time.** Arecibo’s rate (65%) was lowest and Mayagüez’s rate (45%) was lowest, with a 20-percentage point gap.

**Exhibit 3u. Environment Rates by Region for Students with PEIs Ages 7-18 Years**



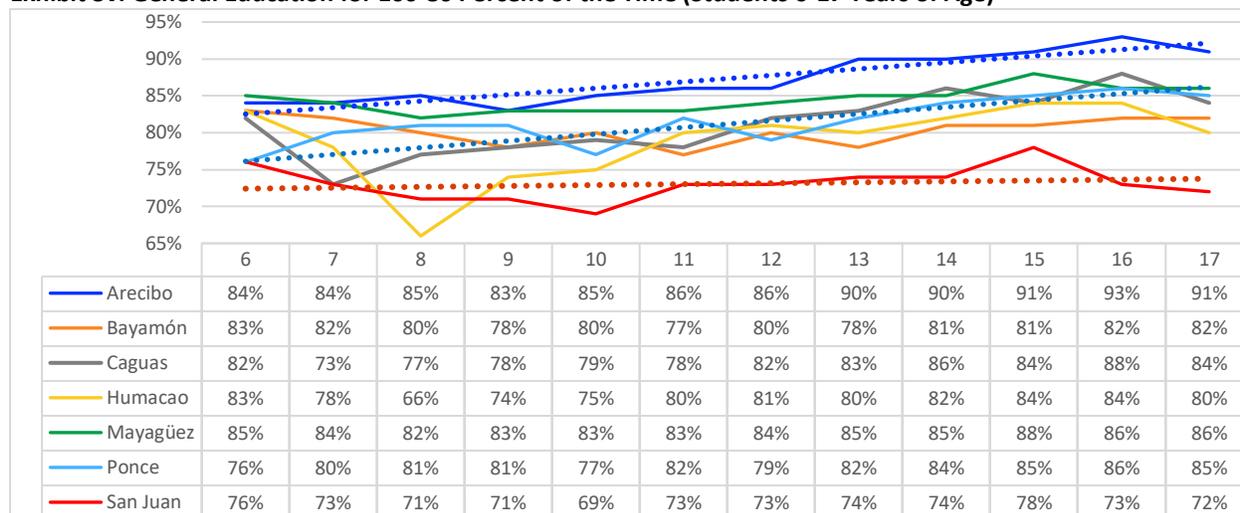
**3. Time in General Education Sorted by Age and by Region**

Disaggregating educational setting data by student age revealed patterns that are masked by overall student averages.

### General Education 100-80% of Time

Dotted trendlines for two regions in Exhibit 3v show rates in the 80+ percent time category generally increased as students aged from 6 years to 17 years. Largest increases were for Arecibo (84% to 91%) and Ponce (76% to 85%). San Juan rates decreased slightly (76 % to 72%). Other regional rates were about the same between these two ages but fluctuated in between.

**Exhibit 3v. General Education for 100-80 Percent of the Time (Students 6-17 Years of Age)**

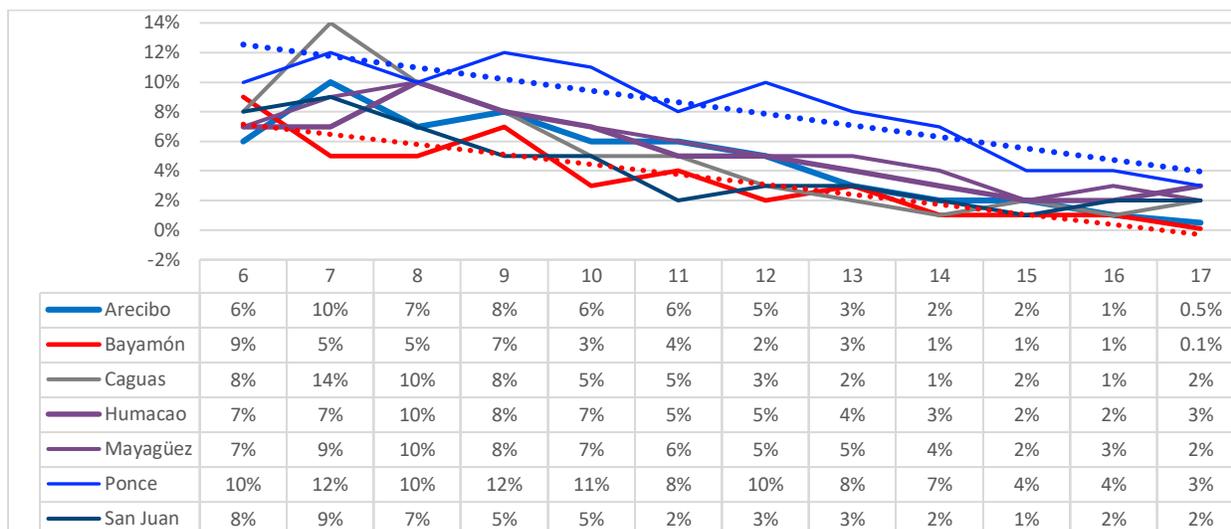


### General Education 79% to 40% of Time

All regional rates for this educational setting decreased significantly for students as they aged. Six-year-olds had the highest rates in Ponce (10%) and Bayamón (9%), and Arecibo had the lowest (6%). The three regional rates for 17-year-olds dropped to 3 percent, 0.1 percent, and 0.5 percent, respectively. The dotted lines represent the trend lines for two regions.

**Exhibit 3w. General Education for 79-40 Percent of the Time (Students 6-17 Years of Age)**

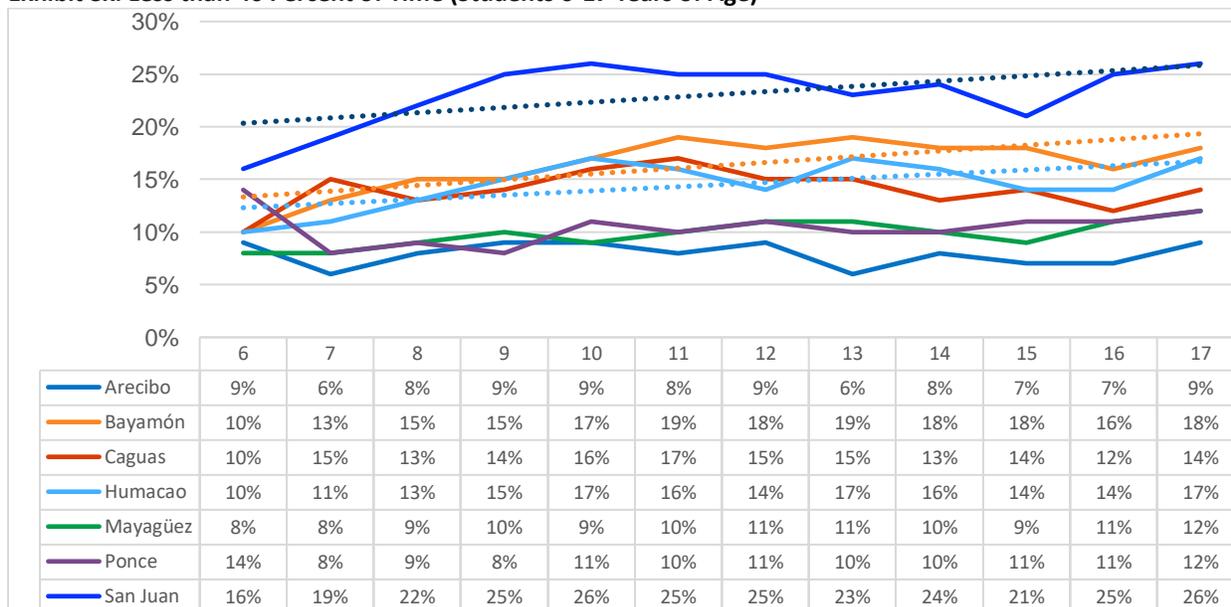
**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**



**General Education Less than 40% of Time**

Students in five regions received instruction in the under-40 percent category at higher rates as they aged from 6 to 17 years. Regions with largest rate increases were San Juan (16% to 26%, by 10pp), Bayamón (10% to 18%, 8pp), and Humacao (10% to 17%, by 7pp). Arecibo rates remained about the same with some fluctuation and Ponce rates decreased (14% to 12%, by -2pp). The dotted lines represent the trend lines for three regions.

**Exhibit 3x. Less than 40 Percent of Time (Students 6-17 Years of Age)**



### Recommendation 3. Benchmark, track, and use associated achievement data to support improvement

Although compliance is important, perhaps more essential is evidence showing SwDs are learning, making progress, and on track for postsecondary higher education or other education or training program; and/or competitive employment. Parents are less likely to complain if their children are succeeding. The recommendations below concerning the use of data to inform student progress and areas of need that require action contribute to this goal.

#### a. SEA Achievement Leadership Team

With a cross-cutting SEA team, including regional and school representation, review data the Council SST reported along with absenteeism data and other data that team members identify. Have the team use this information to develop a list of indicators with data reported by LEA and school (when cell size numbers at least “10”). Notify team members about indicators the State Performance Plan (SPP) and RLV stipulations include. (Note, this model can be used also for students without disabilities and/or other smaller student groups.) In addition, have the team –

- **Data Format Feedback.** Give feedback to produce a user-friendly data presentation format for LEAs and schools, which also highlights SPP and RLV data.
- **79% to 40% time in general education.** Obtain LEA/school feedback to consider the group of students receiving 79% to 40% of their instruction in regular classrooms. Review report data for this middle general education environment with rates much lower than either of the other two regular classroom groups (<80% and >40%). Consider any structural or other barriers preventing more students from being educated more of the time in regular classrooms. For example, do school schedules, special education teacher availability, students leaving school for related services, etc., influence these PEI decisions? Are special classroom designations static and automatically equate to the >40% category?
- For any considerations associated with practices leading to more restrictive placement decisions, develop written guidance to address relevant circumstances. Obtain feedback from regions, schools, and stakeholders before finalizing to address any unanticipated consequences. Publish, train, and monitor data related to guidance issued. (Coordinate this with Recommendation 5’s consideration of this topic.)

#### b. SEA Action Plan

Have the SEA team develop a plan that includes actions such as those below and a template (with LEA/school feedback) for LEAs and schools to draft plans.

- **SPP indicator data.** Collect data for each SPP area for the SEA and by LEA and each of their schools. Report this data to them periodically based on the indicator, and at the end of each school year.

- **Achievement targets.** For each area, have the SEA team establish PRDE and LEA targets that are reasonably ambitious. Have LEAs establish school targets that typically would reflect the overall SPP and/or RLV targets. Also, establish progress goals when current outcomes are far below established targets. Revise annually based on prior year outcomes.
- **Alternate assessment participation.** Have the SEA review/revise as needed protocol used to establish alternate assessment eligibility, monitor practice for LEAs with outlying data, and track movement toward meeting the 1 percent federal cap.
- **Exemplary schools.** Have a process for identifying schools with exemplary outcomes in one or more area to showcase their strategies, overall successes, and progress. Ensure these outcomes are based on SwD demographics typical of the island.

**c. LEA Leadership Team and Action Plans**

With a cross-cutting LEA team with representatives such as those on the SEA team, review LEA data overall to benchmark with average outcomes. Use disaggregated data by school to address outliers. Based on the team's analysis, develop an action plan that identifies the most common issues for all schools for written guidance, training, assistance, and follow-up monitoring. For individual schools with outlier data, support their action planning for targeted areas.

**LEA progress targets.** In addition to monitoring against SEA established targets, establish LEA progress targets (with SEA feedback) for outcomes far below SEA targets. Revise annually based on prior year outcomes with reasonably aggressive rates.

**d. School Leadership Team and Action Plan**

With a cross-cutting school team having representatives such as those on the LEA team, have action plans identify activities designed to improve outcomes for each relevant area. Follow the LEA's direction for data outcomes similar to all schools. For outlying data areas, with LEA personnel support identify relevant activities most likely to improve outcomes.

**School progress targets.** In addition to monitoring against established targets, establish with LEA feedback progress targets for outcomes far below targets. Revise annually based on prior year outcomes with reasonably aggressive rates.

#### IV. SUPPORT FOR ACCELERATING SWD ACHIEVEMENT AND WELLBEING

[PRDE's website](#) includes the following appropriate description of special education and the agency's notable implementation vision and mission.

Special education is not a place. It is a more intensive intervention offered to students with a disability through services established according to individual need.

The vision of the Puerto Rico special education program is to guarantee that every student with disabilities eligible for the program has access to education and shows academic progress through services that are established according to the individual needs of the student in the most inclusive environment possible.

Our mission is to offer those supplementary, educational and related services that students with disabilities require, in the most inclusive educational environment, which allow them to demonstrate academic progress.

Overall, special education personnel interviewees drew on each other for support and were passionate about their support for SwDs. They were very knowledgeable about their areas of responsibilities, conversant with public policies, and attempting to comply with Rosa Lydia Vélez requirements. Special Education staff consistently recognized the need to transition from a compliance focused support system to a system focused on improving student outcomes. They perceived that outcomes have not been reached but were improving.

As information in this section is considered, PR's disproportionately high disability rate (compared to the U.S.), which approaches half of its student population, has a significant impact on PRDE's overall achievement rates. Especially in this context, as MTSS implementation improves overall, and teaching/learning for SwDs in particular, improved achievement for all students will follow.

Section IV focuses on the following four major areas to consider the actions PRDE has taken toward these ends -

- A. Educating Young Children with Disabilities
- B. Specially Designed Instruction for School-Aged Students
- C. Related Services
- D. Progress Monitoring
- E. Transition Services and Support
- F. Professional Learning
- G. Parent Involvement

##### A. Educating Young Children with Disabilities

Most 3- to 5-year-old children with disabilities learn best when to the greatest extent possible they attend school with their peers without disabilities. These settings provide both language and behavioral models that promote their development and help all children learn to be productively engaged with diverse peers. Research confirms that when children with disabilities are included in the regular classroom setting, they: demonstrate higher levels of social play; are more likely to initiate activities; and show substantial gains in key skills—cognitive skills, motor skills, and self-help skills.<sup>41</sup> Participating in activities with typically developing peers allows children with disabilities to learn through modeling, and this learning helps them prepare for the real world. Researchers have found that typically developing children in inclusive classrooms are better able to accept differences and are more likely to see their classmates achieving despite their disabilities. They are also more aware of others' needs.

The importance of inclusive settings is underscored by the federally mandated SPP indicator that measures and requires targets for young children (3 to 5 years of age) receiving most of their services in regular EC programs. As reported in *Section III. Data Associated with SwD Achievement, 2022-23* SPP data showed Puerto Rico educated children a **majority of time in EC classes** at a rate (83%) almost twice as high as the US (42%). Very few PR children are educated in **separate classes** (0.38%), a rate much lower than the U.S. rate (28%). Rates for home services were about the same for PR (3.0%) and the U.S. (2.89%). Finally, services received at a service provider or other location had rates lower for PR than the U.S. (14% to 22%).

The Special Education Manual refers to various educational settings that COMPUs may consider. In addition to services provided for students in hospitals, the following three are described –

- **Natural Environment with Related Services.** Described as the least restrictive alternative of preschool settings available, the student receives services at home, or in care centers receiving PEI-recommended related services (RS) at provider offices. The Council's SST has several concerns about this description.
  - For children 3 to 5 years of age, home services do not allow for interaction with peers to foster development. Also, requiring children to leave their care centers to receive services at another location does not promote interaction between providers and teachers, and either takes children away from their education site to receive services or unnecessarily extends their school day.

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<sup>41</sup> *Special Education Task Force Report: Early Learning.* California Department of Education, 2015, <https://www.cde.ca.gov/sp/se/sr/taskforce2015-early.asp>. Accessed 17 July 2024.

- The description only refers to related services without mention of the required special education primary focus.<sup>42</sup> The Related Services Guide (p. 55) properly notes; “[r]elated services *support special education*.” (Emphasis added.)

Also, IDEA at §300.39(2) states: “special education includes speech-language pathology services, or any other related services, *if the service is considered special education rather than a related service under State standards*.” (Emphasis added.) Typically, states define speech/language services as special education. However, the Special Education Manual states, “*Recommendation of a therapy service, by itself, does not represent eligibility to receive special education services under current law*.” (Emphasis added, page 47.) This theme and concern continue below and in *Section B. School-Aged Teaching and Learning*.

- **Early Education in the Regular Classroom.** In this setting SwDs participate in a preschool environment alongside students without disabilities and receive related services. This includes students placed in the Head Start program and Montessori preschools, regular preschools, and DEPR kindergarten.
  - **Related Services Only.** Along with students in care centers (assuming they receive services at that location), we consider this setting to be the least restrictive alternative. We are concerned that the description does not include the primary focus of special education, which related services are to support.
- **Early Education in a Special Classroom.** In this setting students participate in a preschool environment with other SwDs and are taught by a special education specialist teacher. The focus is on developing pre-readiness, readiness skills, and skills of the modified early childhood (EC) curriculum or modified kindergarten curriculum with students who, as of August 31 of the current year, are five years old.
  - **Lack of Interaction Option.** This description does not include the option that based on PEIs students may attend regular EC classes for specified periods of time (e.g., 30 minutes) and purposes (e.g., circle time, story reading, art/music activities, etc.) to interact with nondisabled peers. The exclusion of this option leaves the impression that young children placed in special classrooms have no opportunity to interact with their peers.

## B. Specially Designed Instruction for School-Aged Students

This section addresses processes and activities that support teaching and learning for school-aged students with disabilities. They include the following areas –

1. Routes, Service Configurations, and Special Education Instruction Generally

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<sup>42</sup> Although states typically define speech/language services as a stand-alone special education, we found no PRDE reference about this possible provision.

2. Reading Specially Designed Instruction
3. Math Specially Designed Instruction
4. Access to Appropriate Instructional Material
5. Support for Student Behavior

## 1. Routes, Service Configurations, and Special Education Instruction Generally

Two sources of information helped to describe the various models for educational settings in which SwDs receive special education and RSs: The May 29, 2019, Public Amendment: Public Policy on School Organization for the Special Education and Promotion and Graduation Requirements for students with Disabilities in the Department's Schools (Public Policy) and the Special Education Manual. Overall, these documents include detailed eligibility criteria to guide COMPU decision making. The Special Education Manual, however, does not have the same level of detail as the Public Policy document. It would be beneficial to revise the July 2020 Manual to be more comprehensive and to place it on a user-friendly electronic platform such as the one used by the [Los Angeles Unified School District](#).

### Pathway Routes to Graduation

Information describes routes to graduation outcomes and various educational placement options with several including more than one graduation route.

- **Route 1.** Students learn with the regular program of study and graduate with a regular diploma when meeting relevant requirements.
- **Route 2.** For students with medium/low academic performance and moderate, severe, or profound cognition, and have moderate/significant difficulties in communicating. Students have a mental age of four or more years below their chronological age or at least four levels below grade, corresponding to chronological ages. These students receive a certificate or modified diploma upon meeting relevant graduation requirements.
  - SPP Indicator 1, which measures graduation rates, does not include students graduating with a “modified” diploma. The Special Education Manual does not appear to have a procedure for informing parents at the earliest time this route is established about the pathway's long-term implications.
- **Route 3.** For students with moderate/severe disabilities, instruction focuses on independent living skills. Students who meet the definition for significant cognitive disabilities may be eligible to receive an alternate diploma. Federal law requires a notice to parents about this designation and its long-term pathway implications.

### Regular Class Placements

Puerto Rico has two placement alternatives offering supplementary services, which offer a pathway for route 1 regular diplomas.

- **Regular Classroom with Supplementary and Support Services (Therapies).** According to the Special Education Manual, students are educated alongside peers without disabilities and receive related services from the special education program. The Public Policy further confirms that students in this alternative placement “only receive related services or therapies to supplement their educational process. For this reason, a special education teacher is not assigned to ‘serve’ them.”
  - Without referencing the receipt of special education, it is not clear how this alternative placement qualifies under IDEA. If special educators provide consultative services to general education teachers per a student’s PEI, then that circumstance should be explicit, along with other descriptions of how special education is offered.
- **Regular Classroom with Services of Resource Teacher.** Under this alternative, students are educated in regular classrooms and resource teachers provide instruction based on various models.
  - **Services in the Classroom (Push-in).** Instruction is provided in small groups, or one on one for (a) completing classroom tasks using manipulatives, accommodations and assistive technology equipment; (b) reinforcing basic reading, writing and/or mathematics skills; and (c) adapting regular teacher tests and assignments while continuing to evaluate student skills.
  - **Services Outside the Classroom (Pull-out).** Students receive special education instruction in small groups or one-on-one assistance. This model is mostly recommended for students in elementary grades to address poor mastery of basic Spanish language skills (reading and writing) and/or mathematics. The regular teacher may also receive support, mentoring, and coaching.
- **Collaborative-Consultative Intervention.** Three teaching strategies are described as being used together according to classroom dynamics of the class.
  - The Public Policy describes these strategies with helpful information, but the Special Education Manual does not.
- **Regular Group Model with Reduced Enrollment.** This model, previously referred to as an “inclusion group,” requires two teachers (regular and special) in the classroom at all times and is for students having potential to receive education in regular classes if given direct and individual instruction. (In the U.S. this model typically is referred to as “co-teaching.”) The model has specific requirements that include a psychological evaluation showing the student earned 65 or more on a general performance scale, and two forms of prior instruction: 1) collaborative-consultative service for more than six consecutive months without progress; or 2) special full-time classroom with related services, reasonable accommodations, and technological assistance for more than 6 months with demonstrated significant progress. No

more than 50 percent of the classroom students are to have PEIs.

- In our experience, over the past few decades school districts have stopped including IQ scores in placement criteria, as these results can change significantly over time.

### Full Time Special Class

Special classrooms enroll only SwDs and have two instructional models. The model descriptions, however, do not describe any opportunities for students to participate in regular classes or otherwise with nondisabled peers. This is inconsistent with IDEA's requirements that students with disabilities: 1) including those in public, private institutions, or other care facilities – to the maximum extent appropriate are educated with students who are nondisabled [34 C.F.R. § 300.114(a)(i)]; and 2) are not removed from age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. [34 C.F.R. §300.116(e)].

- **Special Room with Route 1 Degree Promotion (SEP).** Students receiving instruction under this model present high academic functioning after receiving reasonable accommodations and supplementary services. Three eligibility criteria are: a) previous regular classroom with related and supplemental services for at least 20 weeks without academic progress; b) a level of mild cognitive severity (evaluated 55 to 75 cognitive level); c) mental age of two to three years below chronological age; and d) academic skills two to three grades below corresponding chronological age grade level. The goal is for students to engage in post-secondary (university) studies and obtain competitive employment.
  - Reviewing a sample of PEIs that PRDE shared included reference to a student's intelligence quotient (IQ) score. As previously addressed, our understanding is that IQ research for school children question its reliance for educational decisions and risk pigeonholing students based on test results rather than a holistic view of their abilities. Most importantly, posting IQ scores on PEIs has the potential of biasing educators' perception of what students are capable of learning.

According to the Public Policy's first phase, this model was initiated in August 2019. At that time students in special classes were categorized as specific learning problems (SLD), mild intellectual disability (DIL), emotional disorders, pre-vocational/academic vocational began to be evaluated for SEP classroom appropriateness.

- It is noteworthy that many school districts with which the Council SST is familiar educate students taking regular statewide assessments (on a regular diploma pathway) in regular classrooms for most of the school day. This model enables general education teachers to provide these SWDs grade-level curricular instruction while special educators provide supplementary specially designed instruction (i.e., special education) to meet their academic and behavioral needs.
- **Special Full-Time Classrooms (STC) Modified.** To be eligible students a) have cognitive skills

of moderate, severe, or profound, b) a mental age of four years or more below chronological age, c) academic skills of four grades or more below their corresponding chronological age, and d) have moderate/significant communication difficulties. These areas are evaluated with using reasonable accommodations and, if required, technological assistance. The program of study is modified based on the student’s pathway for a modified or alternate diploma.

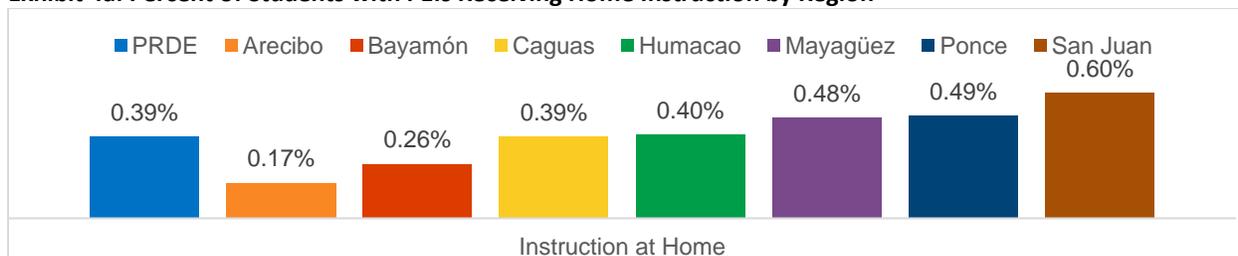
**Education at Home**

According to the Special Education Manual, home instruction is for students with a temporary or permanent health condition requiring home instruction for 10 to 30 consecutive days or at least 30 consecutive school days. The student’s primary physician or specialist provides medical information for this determination. This setting may be used also for students with inappropriate behavior requiring corrective or disciplinary action for a period of 10 to 45 consecutive school days, following relevant discipline procedures for students with PEIs.

- Although the home setting is allowable under IDEA, we note that SwDs are unlikely to improve their behavior by receiving special education/RSs while home.

Data in *Exhibit 4a* shows 0.39 percent of all PRDE students receive home instruction, however, the rates vary greatly by region. San Juan’s highest rate (0.60%) compared to Arecibo’s lowest rate (0.17%) has a gap of 43 percentage points. These differences merit follow up inquiry.

**Exhibit 4a. Percent of Students with PEIs Receiving Home Instruction by Region**



**Relationship Between PEI-Minutes and 79% to 40% Regular Class Category**

According to IDEA, the PEI addresses the extent to which students receive instruction in regular education or in separate classrooms. Specifically, 34 C.F.R. § 300.320.(a) and (a)(4) requires each PEI to include a statement of each student’s special education (specially designed instruction, or SDI), RS, and supplementary aids/services (SAS), based on peer-reviewed research to the extent practicable. For these areas the PEI is to record their anticipated frequency, location, and duration. Neither the Special Education Manual nor the Public Policy included a reference to or explanation of this requirement. Also, the Manual did not include a copy of the PEI form to consider how these requirements are addressed.

As addressed above, the 79% to 40% regular class category is rarely used for PR (4.4%) compared to the U.S. (8.6%). Regional rates varied also (7.3% to 2.9%). It is unclear why this setting is underused for students who might benefit from less time in a special class. Without having a

process by which PEI minutes for students build placement, it appears likely that COMPUs make decisions for either the 80%-100% category or <40% category. However, the middle category (79% to 40%) represents a significant period of time. Considering a typical six-hour school day, that category comprises 2.4 hours to 4.7 hours of the day, a long period of time during which few students receive any SDI, RS, and/or SAS.

When procedures require each area of SDI, RS, and/or SAS to delineate minutes (e.g., by goal area) the frequencies, locations, and durations combine to identify correct educational settings. For example, the [Washington SEA Sample IEP](#) has a Summary of Services Matrix<sup>43</sup> that illustrates this model and exemplifies how special education is not a “place” but rather a group of SDI, RS, and SASs identified/interacting to meet student needs. However, it requires a service delivery system that is sufficiently flexible to meet these needs and carry out this model.

**Exhibit 4b. Washington State Sample IEP Showing Service Delivery**

SDI	Start	Frequency	Amount	Location	End	Responsible Staff
<b>Special Education</b> (specially designed instruction)						
Direct phonics & fluency instruction	10/24/23	Daily	40 min	Separate class	10/23/24	Special educator
Direct instruction: computation, reasoning & work problem strategies	10/24/23	Daily	40 min	Regular class	10/23/24	Co-teach special & general educators
(Add additional lines as needed)						
<b>Related Services</b> (e.g., speech, motor, counseling, vision/hearing, transportation, interpreting services, orientation/mobility, parent training, etc.)						
Speech services to address disfluency/ stutter impacting fluent reading of connect text	10/24/23	Twice weekly	20 min	Separate Class		Speech language pathologist
(Add additional lines as needed)						

### Interviewee Feedback

Interviewees frequently addressed two areas of major concern.

- The first related to their overriding focus on compliance to the detriment of instruction. Although this concern is typical of those raised in other CGCS reviews, the tremendous procedure-related influence of Rosa Lydia Vélez stipulations has intensified these concerns in Puerto Rico.
- Second, much of our discussion concerned the use of therapy. Interviewees were aware of

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<sup>43</sup> See Model State Forms, 6. Individual Education Programs, c. IEP Form-without Secondary Transition at. Page 7.

the need to focus on academics, but they perceived that a disproportionately higher amount of funds are devoted to therapy, leaving too little for academic support. This theme appears through this report.

Interviewees also shared the following noteworthy comments –

- High resource caseloads make it difficult for teachers to support their students. Despite this problem, some teachers are taking the initiative to team teach and co-plan.
- There is a desire to have, within the curriculum department, an individual who has special education instructional expertise to support the use of curricular accommodations for students taking regular assessments. For example, interviewees referenced difficulties involved in following grade 4 standards for students who have reading or math skills far below grade level. As a result, they believe these objectives are unrealistic. Additional support is needed also to help teachers align the curriculum for students learning based on pathway routes 2 and 3.
- The Public Policy states each modified special full-time classroom will have at least one group assistant to support the special education teacher during the “teaching process, curricular and extracurricular activities” and “to the extent possible and resources are available.” When an assistant is not provided teachers have difficulty meeting student needs.
- There were frequent references to accommodations/differentiated instruction for SwDs, which help them learn material based on grade level curricular standards. However, there were very few if any references to the use of supplemental SDI for students needing additional time to focus on areas of learning no longer included in their grade level curriculum. This is another continuing theme that winds through this report.

Overall, we noted the commitment of teachers for students with significant disabilities.

## 2. Reading Specially Designed Instruction Support

PRDE’s document, *Strategies for Differentiation: Students with Disabilities (K-3)*, provides important information. However, as stated above, while differentiated instruction helps students learn material based on curricular standards it does not teach the explicit reading skills they lack. Neither that document nor PRDE’s informative *Notebook for the Development of Literacy, Volume 1*, for the Early Education Program in collaboration with the Spanish Program (2023) includes any reference to the important topic of dyslexia and associated instructional material. Various SEAs have published excellent information on this topic, such as the California Department of Education’s [Dyslexia Guidelines](#). For example, in addition to describing dyslexia characteristics by age group the document details effective instructional approaches. Although designed for students with dyslexia, these approaches are useful for other students struggling to read.

In addition to the absence of standard PRDE sponsored reading material, it does not appear that the agency has sponsored specialized materials for students reading far below their grade level. Interviewees shared their teaching challenges for these students. Teachers reported relying on such resources as ChatGPT to create stories. Others referred to the “global” reading method that relies on whole word recognition rather than decoding individual letter sounds. This method is not based on the several decades of evidence-based reading instruction research.

A PRDE representative referred to a 2018 RTI pilot program that was “successfully implemented” in the Humacao Educational Region. Reportedly, efforts to re-start the program have been unsuccessful. High turn-around rates involved PRDE’s central office personnel in charge of submitting necessary work plans to formalize RTI implementation on the island. However, no additional detail was provided for the pilot other than referring to the SEA’s State Systemic Improvement Plan (SSIP) and information available on its [website](#). That information cited a limited initiative for SwDs to increase local early intervention programs/school regions capacity to help improve academic outcomes and support their families. The information did not describe any content related to reading.

### 3. Math Specially Designed Instruction

As discussed above in I.MTSS Framework for Accelerating Student Achievement, PDRE described its RTI math pilot in its [State Performance Plan/Annual Performance Report](#) and [website](#), as part of its State Systemic Improvement Plan (SSIP). Based on information PRDE shared with the Council SST, the pilot was designed to improve math performance of fifth-grade SwDs taking the META-PR statewide assessment. In 2021-22 the strategy was initiated at 25 Humacao Region schools and was to be extended to 15 San Juan Region schools. However, PRDE’s 2023 [SSIP website](#) identified 10 Humacao schools and 10 San Juan schools. These 20 schools represent a small fraction of the island’s public non-charter elementary schools. Additional information about the SSIP math initiative is described below.

#### Instructional Support for Math

The SSIP described a typical multilevel system of supports for enhancing instruction and improving student outcomes.

- **Data-Driven Practices.** Ongoing performance and efficient progress-monitoring measures were viewed as driving the determination of individual student needs and estimate students’ response to effective Tier 1 instruction. For students who respond less than adequately, increasingly intense instruction would be available in Tier 2 (small groups support) and Tier 3 (individualized support).
- **Teams.** Central and regional administration level RTI leadership teams were formed and trained to support school-based implementation. School personnel were trained also to form leadership teams and math teachers to form math teacher teams. Educator teams were

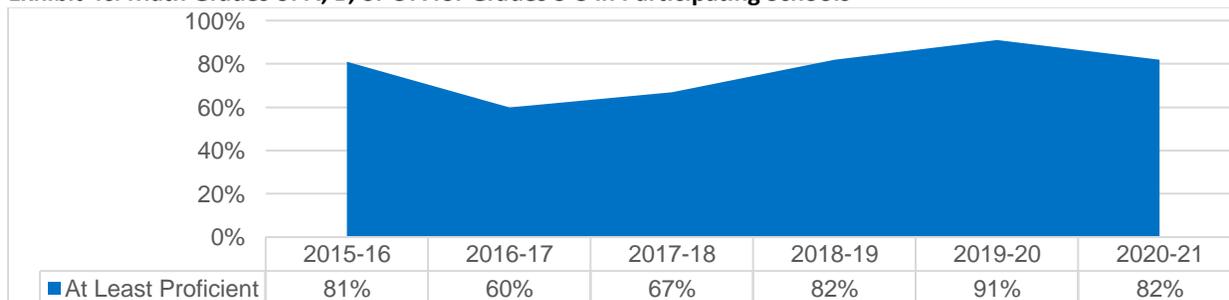
described as meeting regularly to analyze student data, create math intervention plans, work on common formative assessments, and how to improve teaching practices using evidence-based strategies.

- **Professional Development.** Participating teachers received professional development to implement a research-based core math curriculum, using such teaching strategies as differentiated instruction, flexible grouping, direct and explicit instruction, scaffolding, student feedback, metacognition, data analysis, and common formative assessments, among others. Also, a PRDE SSIP [webpage](#) hosts seven training educational capsule videos, with the last presented in two parts.
- **More Intensive Instruction.** Students requiring more intense instruction would be referred to Tier 2 or 3, although the SSIP did not describe related practices. The SSIP also did not indicate that intense instruction would supplement and not replace core instruction.
- **Monitoring Implementation.** Additional details were provided for monitoring implementation, including use of RTI rubrics from the [RTI Action Network](#) as a guide.

The SSIP contained data for grade 3-5 SwDs in participating schools based on students earning an A, B, or C in math courses for the school year. All of the elementary schools were from the former Yabucoa School District. (See *Exhibit 4b.*) According to PRDE, the data suggests that the SSIP improvement strategies were working and produced the expected results. “The percentage [90%] of students who obtained A, B and C during 2019-20 is the highest reported compared to all FFYs since PRDE began analyzing this data for the SSIP in FFY 2015.”

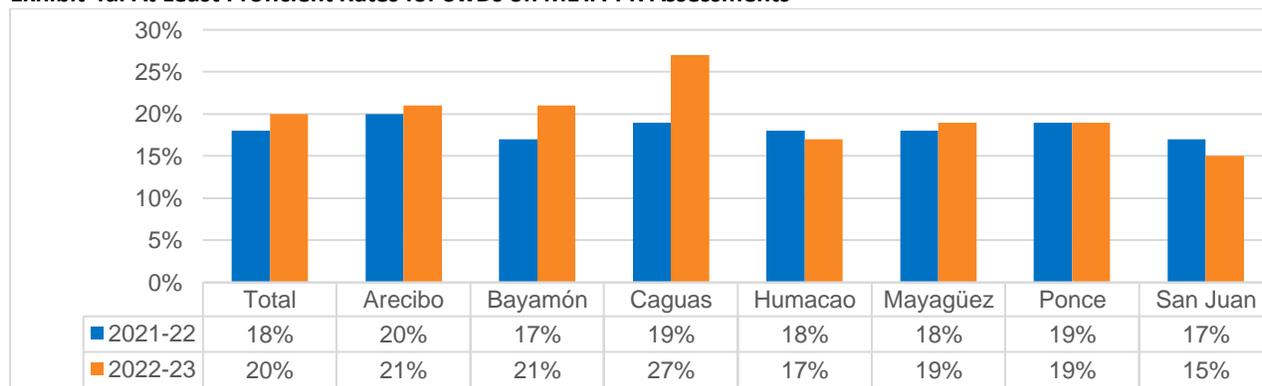
- Note that this finding is curious given that the 2015-16 rate (81%) decreased in 2016-17 (60%). The rate did increase in 2017-18 (67%) and jumped in 2018-19 (82%). PRDE noted that 2020-21 rates occurred during the COVID pandemic when nearly the entire school year was conducted virtually.

**Exhibit 4c. Math Grades of A, B, or C A for Grades 3-5 in Participating Schools**



- Data was not reported based on META-PR assessment results. For comparison purposes, *Exhibit 4d. At Least Proficient Rates for SwDs on METRA-PR Assessments* data show for 2021-22 and 2022-23 significantly lower proficient/above rates. More recent assessment data for schools with participation in the pilot would be informative.

Exhibit 4d. At Least Proficient Rates for SwDs on META-PR Assessments



#### 4. Access to Appropriate Instructional Material

Interviewees shared information about their access to appropriate instructional materials, which reflected that teachers generally receive for SwDs the same books as students without disabilities receive. However, supplementary materials designed to promote academic achievement in areas no longer taught by their general education teachers are not typically available. Teachers rely on technology, such as televisions, computers, radios, etc. Concerns were expressed about obsolete computers and inconsistent Internet access. Also, there were examples of books coming apart and losing pages, and there was a desire for physical materials to support “hands-on” experience.

#### 5. Support for Student Behavior

In addition to information about PBIS that was discussed in *I. MTSS Framework for Accelerating Student Achievement*, interviewees shared information about SwDs. Unlike most Council SST special education reviews where interviewees devote much attention to problematic student behavior, Puerto Rico interviewees did not share such concerns. The low number of suspended SwDs (88 in 2022-23) may be related to this result.

Interviewees who did address student behavior shared the following noteworthy comments –

- Teachers need more support to address some students with aggressive behavior. According to one facilitator, eighty percent of requests for his/her support related to behavior support needs.
- There is a desire for a guide to address students with behavior challenges that includes examples of helpful interventions and supports.
- Although PRDE has employed Board Certified Behavior Analysts (BCBAs) and behavior analysts, there is a need for protocols to guide access to their services and their support to school personnel.
- Some schools have hired an additional school psychologist to support the behavioral needs

of students.

- There is an additional need to work with other government agencies to support families and students with behavior and social/emotional needs.

### C. Related Services

This section addresses processes and activities that support teaching and learning for school-aged students with disabilities. They include the following areas –

1. Related Services Data
2. FTE Personnel to Student Ratios
3. PRDE Related Services Guidance
4. Outsourced Services
5. Related Services Provided Outside Students' School
6. Provisional Remedy
7. Therapy Costs
8. Commission on the Transformation of Special Education Report

Based on the Council SST's experience, data, and interview feedback, PRDE students receive a disproportionately high proportion of RS compared to SDI, appearing to prioritize RS over SDI. For example, based on a few PEIs that we reviewed, one 6.6-year-old student with low average academic performance had an educational gap needing moderate/significant support. The PEI specified a weekly total of 60 minutes for "education" and 135 minutes for RS (psychological and OT).

Another indication of RS' prioritized importance is the required use of Intervention Plans (SAEE-SR-1-03), which are not required for SDI. These plans are not IDEA-required or similar to any in use by districts with whom we have experience. Unlike IDEA's annually required PEI review with parents, intervention plans require January and May meetings with parents, and their signatures. This process adds paperwork requirements and outside corporation costs associated with private RS providers. Pursuant to Stipulation 45, PRDE must also monitor intervention plan completion.

Based on PRDE data, ratios for students to each RS provider are much lower compared to those based on a group of 83 school districts for which the Council SST has data. Related service overreliance is especially problematic because outside corporations almost exclusively provide psychological, speech/language, occupational therapy (OT), and physical therapy (PT) services. Furthermore, for too many students these services are located away from school, requiring many students to leave school sites and miss their general and special education instruction. Contributions to this problem are many. Some include: 1) use of outside providers to both evaluate and recommend the amount, duration, and location of services; 2) absence of clear guidance for COMPU team decision-making, including the reliance on outside provider

recommendations; and 3) the many Rosa Lydia Vélez (RLV) stipulations that relate to RS measurement to the exclusion of specially designed instruction.

The information below addresses these and other contributing conditions. RLV stipulations are a focus in *Section VI. RLV Stipulations, Compliance, and Impact on Teaching and Learning*.

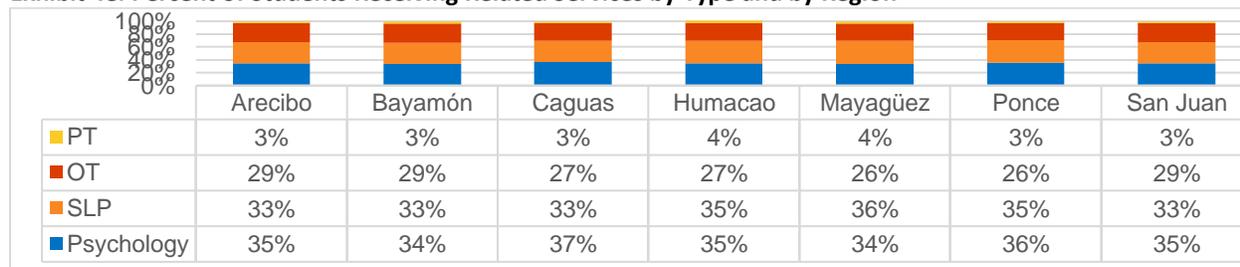
### 1. Related Services Data

*Exhibit 4e. Percent of Students Receiving Related Services by Type and by Region* data addresses the four most common RS areas of psychology (Psych), speech/language impairment services (SLI), Occupational Therapy (OT), and Physical Therapy (PT). Of these areas, PT had the smallest representation overall, and low rates across regions (3% to 4%) based on their overall SwD figures.

#### Related Services by Type and by Region

Overall, RSs provided by a psychologist and speech/language pathologist (SLP) are most common. Both areas have regional rates that are fairly consistent across regions: Psychological services (34% to 38% range), SLP services (33% to 36% range), and OT (26% to 29% range).<sup>44</sup> In our experience, psychological services and OT rates are higher than expected.

**Exhibit 4e. Percent of Students Receiving Related Services by Type and by Region**



#### Related Services by Area and by Grade Level

*Exhibit 4f. Percent of Students Receiving Each Related Service by Grade Level* data shows --

**Psychology.** A higher rate of students receives this service at the superior (high school) level (55%) compared to the intermediate (42%) and elementary (31%) levels.

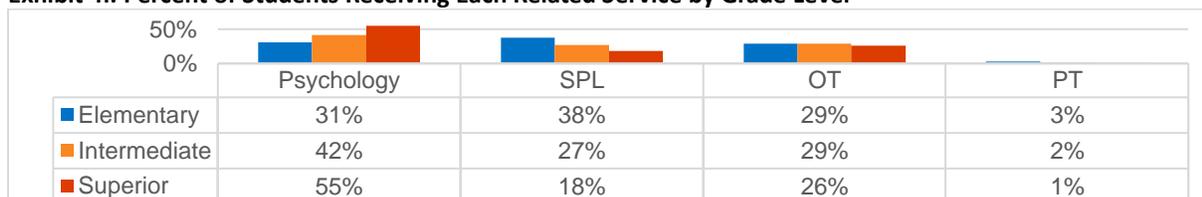
- **SPL.** The elementary level rate is highest (38%), followed by intermediate (27%) and superior

<sup>44</sup> SLI includes data PRDE provided for the therapies of Dysphagia (difficulty swallowing) and Oromotor (facilitating improved jaw, lip and tongue function.) Together, these two therapies comprise 9 percent of all students receiving SLP services. In the U.S., typically students may have an Oromotor objective as part of an articulation goal. For dysphagia support, feeding teams work with family medical teams to ensure that precautions are taken for the child when eating at school. Team recommendations are based on the students' swallow study to identify specific types of useful utensils, cups, and plates, and to train a paraprofessional or special educator who will be with the child during mealtime. Also, goals may be listed to promote independent feeding/eating. In the Council SST's experience, RS databases do not have this level of detail.

(18%) rates. This declining trend is typical for U.S. school districts, which typically is based on therapy success and declining student motivation.

- **OT.** Interestingly, OT rates are the same for elementary and middle school levels (each at 29%) and decline slightly at the superior level (26%). These rates are higher than those we typically see in U.S. districts.
- **PT.** Consistent with U.S. trends, small PT rates are higher at the elementary (3%) than the superior (1%) level.

**Exhibit 4f. Percent of Students Receiving Each Related Service by Grade Level**



## 2. FTE Personnel to Student Ratios

Personnel FTE data for RSs included vacancies and outsourced personnel that were disaggregated and addressed further below. *Exhibit 4g. Related Services Personnel by Area* data include psychologists (psych), SPL/speech therapists, nurses, social workers (SW), and OTs. (PT figures are shown in Exhibit 4h.) We calculated PRDE staff ratios by comparing FTE personnel figures to total SwDs. Comparative ratios are based on 81 other school districts for which the Council of the Great City Schools (CGCS) has data. These figures show the dramatic differences between the surveyed districts and PRDE ratios for SwDs to one provider in each area. The following percentage points (pp) reflect the extent to which CGCS staff ratios exceed PR's: psychology (by 174 pp), speech (by 89 pp), nurse (by 75pp), social work (by 187pp), occupational therapy (OT, by 295pp).

**Exhibit 4g. FTE Related Services Personnel by Area (except Physical Therapy) to Each SwD**

	Psychologists	SPL/Therapists	Nurses	Social Workers	OTs
Arecibo	40	28	105	70	103
Bayamón	34	26	106	71	81
Caguas	35	30	95	66	105
Humacao	32	27	73	48	102
Mayagüez	47	39	96	62	151
Ponce	42	39	56	56	147
San Juan	28	22	77	77	79
PR All	36	29	95	64	102
CGCS All	174	118	170	251	397

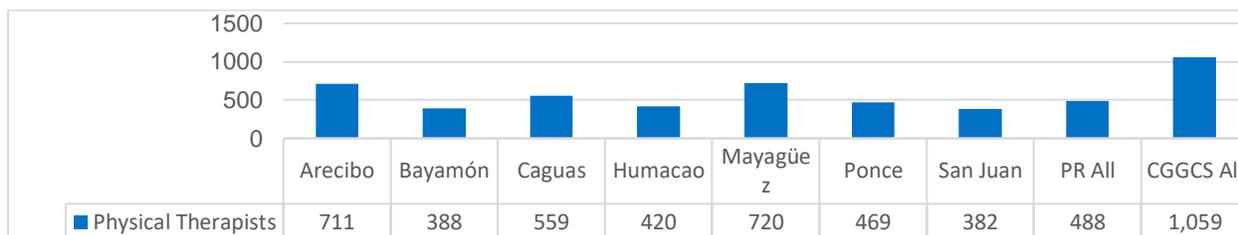
PRDE staff ratio variations are evident by region –

- **Psychologists.** Ratios are highest for Ponce (40) and lowest for San Juan (28). Overall respective ratios for PRDE and CGCS are 35 and 174 students to each psychologist.
- **SLP/Therapists.** Ratios are highest for Ponce and Mayagüez (each at 39) and lowest for San Juan (22). Overall respective ratios for PRDE and CGCS are 29 and 118 students to each SPL/speech therapist.
- **Nurses.** Ratios are highest for Bayamón (106) and Arecibo (105) and lowest for San Juan (77). Overall respective ratios for PRDE and CGCS are 95 and 170 students to each nurse.
- **SWs.** Ratios are highest for San Juan (77) and lowest Humacao (48). Overall respective ratios for PRDE and CGCS are 64 and 251 students to each social worker.
- **OTs.** Ratios are highest for Mayagüez (151) and lowest for San Juan (79). Overall respective ratios for PRDE and CGCS are 102 and 397 students to each OT.

Larger PT to student ratios is shown below in *Exhibit 4h*. Ratios are highest for Arecibo (711) and lowest for San Juan (382). Although overall PT ratios are low for Puerto Rico, they are high (488) compared to the US (1,059).

**Exhibit 4h. FTE Physical Therapist Ratios to Each Student with a PEI**

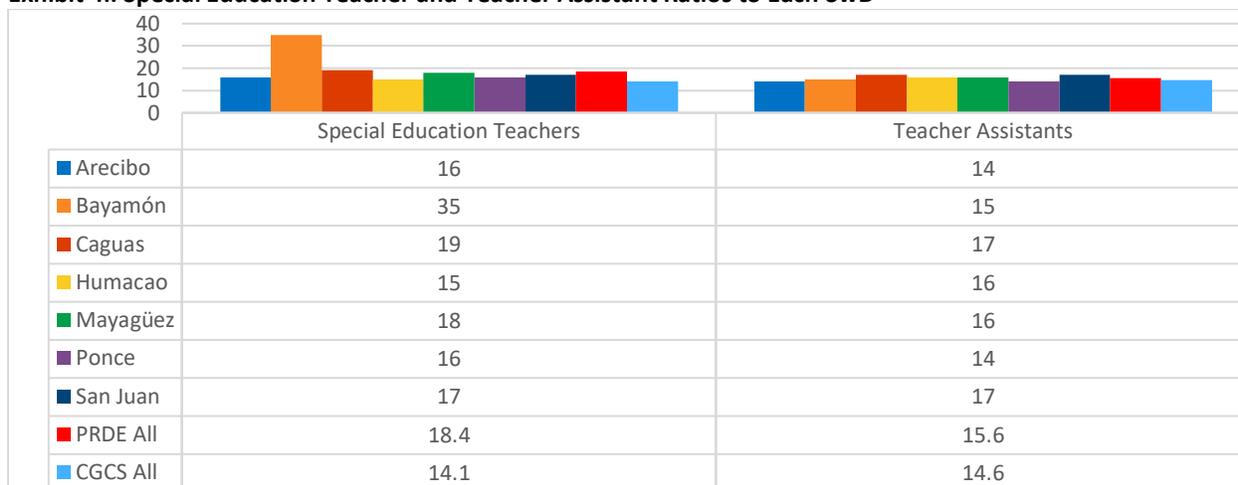
**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**



**Special Education Teachers and Teacher Assistant to Student Ratios**

Exhibit 4i. Special Education Teacher and Teacher Assistant Ratios to Each SwD data show that unlike for RS personnel, CGCS ratios are smaller than PRDE’s for special educators (14.1 to 18.4) and for teacher assistants (14.6 to 15.6).

**Exhibit 4i. Special Education Teacher and Teacher Assistant Ratios to Each SwD**



- **Special Education Teachers.** Ratios are highest for Bayamón (35) and lowest for Arecibo and Ponce (15).
- **Teacher Assistants.** Ratios are highest for Caguas and San Juan (17) and lowest for Arecibo (14).

**Comparison of District SwD Rates and Personnel Ratios: Background and Caveat**

As customary with Council SST special education reviews, PRDE shared FTE personnel data for seven areas related to special education/related services, including those that are vacant or contractual, as well as data to compute PRDE’s student with disability (SwD) rate. This data was used above to calculate PRDE personnel to PEI ratios. The data was also used to compare PRDE with other school districts for whom the team has collected data.

We used the same services to personnel ratio to compare each of seven personnel areas to total SwD counts. It is important to note that personnel ratios are based on all SwDs. The ratios would be smaller for personnel areas not engaged with SwDs, e.g., the ratio of 95.4 SwD per SLI services

would be smaller excluding students without SLI services. The same is true for all districts. This PEI based analysis has allowed for a large set of 81 district data set submissions. A more precise analysis would make this collection and analysis more difficult.

As indicated, these comparative ratios are not precise, so results need to be used with caution and *is neither intended nor should be relied upon to make personnel decisions*. Rather, extreme ratios (either low or high) should be used to investigate that: 1) COMPUS use clear criteria to determine student need for services outside the norm; and 2) associated personnel effectively meet student need. In addition, surveyed data may not be consistently reported and are sometimes affected by a greater reliance on different placement types, e.g., separate classrooms versus resource services. The data may count all SwDs, including those placed in charters, agencies, and nonpublic schools, while other districts do not count these. Still, this data is the best available and is useful as a rough guide to comparing staffing ratios.

### Analysis of PRDE Ratios Compared to 82 Other Districts

As figures show above in *Exhibits 4g-1* (ratios for RSs, special educators, and as the following are average ratios for one provider (in each area) to SwDs: special educators (18.4), teacher assistants (15.6), psychology (36), SLP/therapists (29), nurses (95), social workers (64), OT (102), and PT (488).

*Exhibit 4j. U.S. Survey Respondents Compared to PRDE* data shows the following: 1) number of districts with ratios for each area; 2) number of districts with ratios lower than PRDE; and 3) percentage of all districts with ratios lower than PRDE. Note: districts with smaller ratios have MORE SwD per RS provider. In other words, they employ/contract with proportionately fewer providers than PRDE. For example, for SWs, if 4 of 53 districts had smaller ratios than PRDE. (See *Appendix A. Percent SwD of Total Enrollment & SwD to Staff Ratio in Ascending Order by Personnel Group.*)

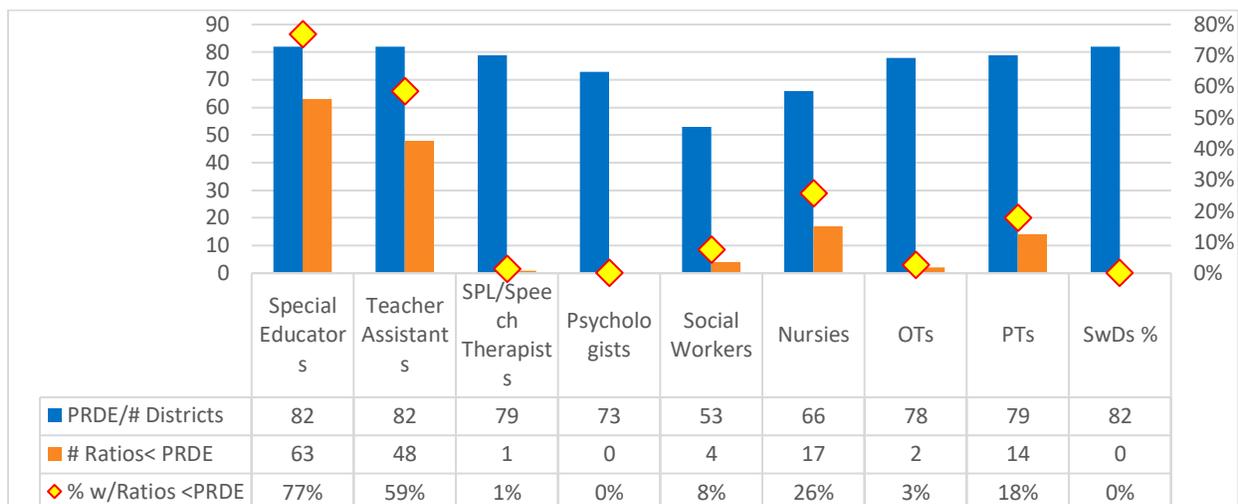
With the above explanation in mind -

- **Special educator to SwD** data showed 63 (77%) of 82 districts had lower ratios than PRDE.
- **Teacher assistant to SWD** data showed 48 (59%) of 82 districts had lower ratios than PRDE.
- **Related Services.** Data for all six areas had student to personnel ratios much smaller than PRDEs. Percentages for districts with smaller ratios in ascending order are psychologists (none, or 0%), SPL/speech therapists (1%), OTs (3%), social workers (8%), PTs (18%), and nurses (26%).

**SwD Enrollment Rates.** Data for SwD rates for PRDE and the other districts showed Puerto Rico's 37 percent rate was the highest of all reports; the next highest was 21 percent and the lowest was 8 percent.

### Exhibit 4j. U.S. Survey Respondent Comparisons to PRDE

**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**



**Psychologists**

Several years ago, PRDE psychological services were outsourced. Since the pandemic, an effort was made to have at least one psychologist in every school. For example, all but 50 schools have a psychologist. The goal is to employ 851 psychologists, and currently there are 753. (This does not include another 1,607 outsourced psychologists.) Generally, psychologists have three weekly days for special education with time for about five daily sessions for students. On two days, they work with teachers and provide brief interventions with nondisabled students and parents, etc. Interviewees commented that this one-size-fits-all approach to school staffing may not be the best approach as schools have different enrollment sizes and student needs.

Reportedly, since the number of school psychologists has increased, so has the number of students receiving psychological services. Interviewees shared that psychologists address student trauma (e.g., anxiety and depression) related to various family and environmental causes, such as continuing impact of the pandemic, hurricanes, and earthquakes. There is a desire to engage in more prevention/intervention for all students and collaborate with teachers, but there is insufficient time to do so. Typical for every Council SST review, interviewees expressed a need for more staff.

**3. PRDE Related Services Guidance**

PRDE shared with the Council SST three documents that provide RS guidance. These are the Public Policy, Special Education Manual, and the 2021-22 Guide to the Provision of Related Services (Evaluation and Therapy) (Related Services Guide). Information below summarizes noteworthy guidance.

**Types of RS Interventions**

The Related Services Guide describes six types of intervention. It is important to note that only two of these interventions are provided outside a student’s classroom. (Although not mentioned,

by definition these could occur in a student's school or off-site location.) The remaining four types rely on services provided in a student's school and in close coordination with teachers.

### ...Interventions Provided Outside the Classroom

The following two intervention models are provided outside of the classroom –

- **Direct group intervention:** Given to homogeneous groups of two to four students for speech-language, physical, psychological therapies and for two to five students for occupational therapy.
- **Individual Direct Intervention:** The specialist offers more specialized instruction targeted at specific skills for one student at a time.

### ...Interventions Provided in Collaboration with Teachers

Four intervention models rely on classroom teacher collaboration –

- **Consulting intervention:** The specialist consults with school personnel, parents or other professionals by analyzing, adapting, modifying and creating teaching materials. The specialist observes the student's performance in the classroom and meets with the teacher to help plan and monitor student progress. This model includes providing information, demonstrating effective instruction, and providing procedures to support teachers and parents. Consultation is offered once a month or semester based on the student's PEI, for one or two years *at the discretion of the specialist*. (Emphasis added.) It is not apparent why the specialist would have the discretion, independent of the COMPU, to establish the length of consultation services (one or two years).
- **Complementary-collaborative intervention:** The specialist intervenes with the student in the classroom and the teacher is the special instructor.
- **Instructional intervention:** The specialist intervenes once or twice a month and reduces the amount gradually with the student based on teacher, parent, and student needs who are instructed to apply strategies and procedures demonstrated.
- **Integrated intervention in the classroom:** The teacher and specialists work together with each professional focusing on their area of specialization.

With the number of outsourced services used in Puerto Rico, four of the six therapy models appear to be irrelevant and unavailable for COMPU consideration.

## 4. Outsourced Services

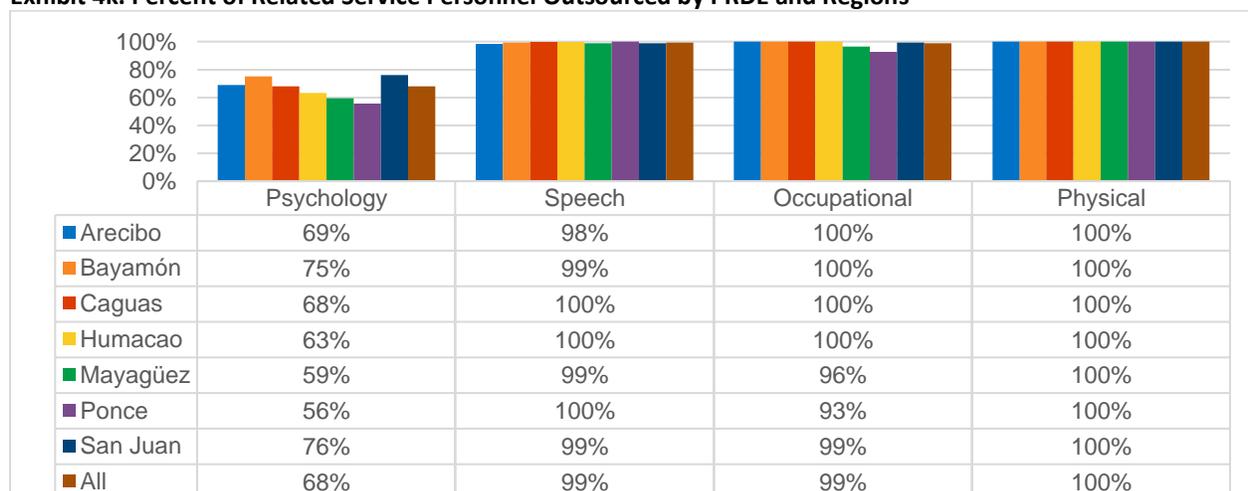
Services by nurses and social workers are not provided by outsourced corporates; however, other RSs mostly are. It is difficult if not possible for therapists to provide use of any of the first intervention models described above, which rely on collaboration with teachers.

*Exhibit 4k. Percent of Related Service Personnel Outsourced by PRDE and Regions* data show the

extent to which PRDE relies on outside corporations to provide RSs (typically at locations away from the students’ schools) at rates higher than the Council SST has experienced. Overall, all PT services are outsourced, and 99 percent are outsourced for speech and OT. Regional rates for psychology vary the most and somewhat for OT.

- **Psychology.** With an overall outsource rate of 68 percent, region rates range by 20 percentage points. San Juan’s rate is highest (76%) closely followed by Bayamón (75%) and Ponce’s rate is lowest (56%).
- **OT.** With an overall rate of 99 percent, regional rates range by 7 percentage points. Only two regions have rates less than 99 percent: Mayagüez (96%) and Ponce (93%).

Exhibit 4k. Percent of Related Service Personnel Outsourced by PRDE and Regions



### 5. Related Services Provided Outside of Students’ School

The Public Policy reinforced the value of RSs when students receive them within their school environment.

The goal of the DEPR is that all related services are offered within the school environment since this fosters: (1) communication between the entire multidisciplinary team that cares for the student; (2) transdisciplinary planning, where all professionals They work with a common goal, collaboratively and actively; 3) consulting regular and special education teachers on how to attend the needs of the student in the school environment; and (4) minimizes the impact of the student's teaching time by not having to leave the school campus. Each school urges us to contemplate spaces for these services to be provided in the school environment. When a student receives related services during the school period, the teacher regular will be responsible for delivering the material offered in the class, the next day that (3) consulting regular and special education teachers on

how to attend the student introduces himself. Parents are responsible for guiding the student to complete assigned tasks during that time within the term established by the regular teacher or with extended time (if reasonable accommodation has been established in the PEI). (Pages 6 and 7.)

Unfortunately, a major interviewee theme concerned therapies provided off school sites and the amount of time this practice has taken from instruction. They stressed a need for therapy to be integrated with academics, but this strategy is not common because outsourced services have interfered with this model. Teachers find it difficult to communicate with therapists under these circumstances, making us question how RSs are being used to support special education.

Following are noteworthy interviewee comments and concerns –

- Various estimates were given about the percent of SwDs who leave school for therapy, ranging from about 75 percent to 10-15 percent of students receiving RS.
- Reportedly, sometimes students leave school from three or four times each week, for three classes in one day, etc. In one anecdote 8 of 17 students leave for therapy multiple times per week, in another 5 students leave for therapy that is located 1 to 1.5 hours away. Yet another student has four therapies twice weekly. Sometimes a student can miss a good portion of the school day.
- According to the 2015 Commission Report, they found that students may miss two to three class periods up to three times per week.
- There were an unusual number of references to students receiving individual therapy, mostly for 45 minutes per session.

### **Teacher's Role when Students Leave School for Therapy**

When SwDs leave for therapy, the classroom and special education teachers are expected to work with the student to cover materials missed. Teachers shared the following methods they used for this purpose –

- Record lessons.
- After school tutoring.
- The service assistant takes notes and repeats lessons for the student.

According to the 2015 Commission Report, teachers give students missed work, so parents can help their children complete it. This model, however, does not compensate for teachers' direct instruction.

### **Reasons for Outside Services**

Interviewees shared the following reasons for therapies provided off the school site. (Discussed directly below these reasons are others not mentioned.)

- **Economic Considerations.** Reportedly, corporations reason it is not cost effective for them to send therapists to schools to see a few students.
- **Space.** Various comments referred to the lack of space in schools to explain why students must leave school for services. Space shortages were attributed to the closing of schools, which left insufficient room for PT materials. One anecdote referred to use of nearby schools for this purpose. Another cited finding room for therapy but that left insufficient room for other purposes. One stressed effort was made to find room for students to remain in school for therapy. One school visited had built mini structures on the school grounds to accommodate therapist services.
- **Applied Behavior Analysis (ABA).** ABA is offered in a few schools only and students must travel a very far distance for these services.
- **Salaries.** PRDE salaries are lower than those offered by the private corporations, which incentivizes personnel to leave for higher pay.
- **Unique Therapy.** There were references to therapies that in the Council SST experience is rarely if ever justified as necessary for students in the U.S. These include equestrian and other animal therapies, aquatic therapy, etc.
- **Parent Advocacy.** There is a pervasive parental belief that the quantity of RS offers students a superior education. References were common to parents and their advocates demanding individualized off-site therapies for reasons unrelated to classroom learning. It has been very difficult to explain and for them to understand that more therapy does not necessarily promote student achievement/progress. School personnel are reluctant to disagree with parents, fearing press coverage or a due process hearing with unsympathetic hearing officers who tend to support parental requests. Another factor that influences parent advocacy is the lack of Medicaid for children in Puerto Rico. As a results, parents turn to schools and request services Medicaid typically funds in the U.S.

### Transportation

Another complication with off-site therapy relates to transportation to and from the service location. Service assistants accompany students, and carriers pick up students at school and return them to schools or homes. Interviewees shared that some students could be transported for one to two hours during service days, which as previously mentioned could occur several days each week. Therapy time is added to transportation time, resulting in much lost instruction. One anecdote involved an assistant who left school to accompany a student, who then left one teacher assistant to work with students having significant disabilities, including changing diapers.

### Therapy Recommendations

Interviewees shared information about therapists who both evaluate students and make PEI service recommendations. We are concerned that this process reflects potential conflicts of

interest in recommendations benefiting providers' private agencies or providers themselves. In such cases, specialists recommend the frequency, duration, and group size of therapy, which COMPUs tend to confirm.

Two other considerations apply to the process for recommending and approving therapy services.

- **Service Location.** Another PEI factor is the service location, i.e., in or outside the regular classroom. As mentioned above, it is unclear how the four models described above based on services in regular classes can be recommended for students served by off-site therapists
- **COMPU Decision-Making.** Another question is the extent to which outsourced therapists regularly attend COMPU meetings to draft PEIs. Although theoretically the committee can disagree with or question therapist recommendations, this is more difficult when done without the therapist present.

## 6. Provisional Remedy

Interviewees report that individual therapy commonly triggers the provisional remedy when requirements associated with numerous RSs are not met. Also, non-implementation requires compensatory services. *Section VI. RLV Stipulations, Compliance, and Impact on Teaching and Learning* includes information about the above and other RS matters impacted by RLV Stipulations. Some interviewees suggested RLV Stipulations' disproportionate attention to RSs and provisional remedy consequence compared to special education contributes to the unusually strong advocacy for therapy.

Interviewees shared additional reasons RSs noncompliance trigger provisional remedies, such as procurement delays that interfere with service implementation, school RS personnel who report full caseloads, etc. Others shared teletherapy used for psychological therapy may cease because the license was about to expire. Plans for continuing this service provision were unknown at the time of our visit.

## 7. Therapy Costs

According to interviewees, purchased services could reach up to \$45,000 per month for one student, or \$10,000 to \$20,000 per month for a student attending once during that time. We requested for each type of RS the total cost for PEI-required services and for provisional remedies for 2022-23 and 2023-24 to date. Instead, we received a statement of per service costs with no calculation of its application to students. Such a calculation (along with transportation savings) would be useful to assess fiscal benefits to increasing school-based services, even with salary increases and other incentives.

## 8. Commission on the Transformation of Special Education Report

The 2016 Commission Report addressed the issue of students missing instruction to receive related services off school site, and included the following recommendations that we support --

- Prioritize centralizing RS in schools to allow therapists the ability to support students in the classroom, collaborating to the extent possible with teachers.
- Construct or repurpose classrooms in the schools that are spacious and well equipped to provide therapies, so students do not lose instructional time, and only offer off-site if uniquely specialized or warranted for relatively few students.

According to the Commission, these provisions would significantly reduce transportation costs and adverse achievement impact. The Commission reported that transportation for this purpose is in the millions of dollars.

### D. Progress Monitoring

When we asked PRDE to provide information about progress monitoring for SwDs, the response indicated that the PEI is reviewed with the same frequency as non-disabled students are assessed, which is every 10 weeks. Teachers use their own monitoring tools, based on what is established in the PEI, and progress is documented in MiPE. Some interviewees indicated that they use grades to measure progress, and when students are not progressing the teachers communicate and talk with parents. This reported methods merit improvement, which match interviewees' requests.

### E. Transition Services and Support

Perhaps the most important function of elementary/secondary education is the preparation of youth for postsecondary employment and independent living. However, outcomes for individuals with disabilities are bleak. The U.S. employment rate, which includes Puerto Rico, was 37.3% for people with disabilities and 79.4% for people without disabilities. Puerto Rico's rate was [lowest](#) (23.7%), followed by Alabama (27.0%); and North Dakota's rate was highest (56.1%).

Research has linked working during high school, particularly in paid jobs, to higher employment rates after graduation among youth with an IEP.<sup>45</sup> According to an American Institutes for Research study,

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<sup>45</sup> Newman, L., Wagner, M., Huang, T., Shaver, D., Knokey, A.-M., Yu, J., Contreras, E., Ferguson, K., Greene, S., Nagle, K., and Cameto, R. (2011). *Secondary School Programs and Performance of Students with Disabilities. A Special Topic Report of Findings from the National Longitudinal Transition Study-2 (NLTS2)* (NCSER 2012-3000). U.S. Department of Education. Washington, DC: National Center for Special Education Research.

Previous studies have demonstrated that students with disabilities who have work experiences while in high school are more likely to be employed after high school. Often the work experience in which they were enrolled led directly to a postsecondary job for a student. For these students, it is important to have occupationally specific CTE programs, with appropriate instructional and adaptive support services and accommodations, available in high school.<sup>46</sup>

The National Collaboration on Workforce and Disability reinforced this finding further by reporting that “[w]hile work experiences are beneficial to all youth, they are particularly valuable for youth with disabilities. For youth with disabilities, one of the most important research findings shows that work experience during high school (paid or unpaid) helps them get jobs at higher wages after they graduate.”<sup>47</sup> The National Collaboration published research showing that quality work-based learning experiences include these characteristics:

- Experiences provide exposure to a wide range of work sites in order to help youth make informed choices about career selections.
- Experiences are age and stage appropriate, ranging from site visits and tours to job shadowing, internships (unpaid and paid), and paid work experience.
- Work site learning is structured and links back to classroom instruction.
- A trained mentor helps structure the learning at the worksite.
- Periodic assessment and feedback are built into the training.
- Youth are fully involved in choosing and structuring their experiences.
- Outcomes are clear and measurable.

Finally, as the National Technical Assistance Center on Transition wrote in its Competitive Integrated Employment Toolkit (NTAC Toolkit) wrote –

Competitive Integrated Employment (CIE), real work for real pay is the gold standard of transition outcomes for students with disabilities. The work should align with the post-school employment goals of the student and is the desired transition outcome for all students with disabilities who choose to work, regardless of disability or needed accommodations or support. CIE should be a realistic and desirable expectation for all students.<sup>48</sup>

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<sup>46</sup> Brand, Betsy, Andrew Valent, and Louis Danielson. "Improving College and Career Readiness for Students with Disabilities." *College and Career Readiness and Success Center* (2013).

<sup>47</sup> Shandra, Carrie L, and Dennis P Hogan. "School-to-work program participation and the post-high school employment of young adults with disabilities." *Journal of vocational rehabilitation* vol. 29,2 (2008): 117-130.

<sup>48</sup> National Technical Assistance Center on Transition: The Collaborative. "Competitive Integrated Employment Toolkit." 2020, [transitionta.org/wp-content/uploads/docs/toolkit\\_CIE.pdf](https://transitionta.org/wp-content/uploads/docs/toolkit_CIE.pdf).

## 1. Written Guidance

The [Guide for Transition from School to Post-secondary Life](#) (Transition Guide), 2<sup>nd</sup> Edition (August 27, 2021) is the public policy that governs the transition process from school to post-secondary life for eligible students. The Transition Guide is comprehensive with 118 pages of information. Unfortunately, the document does not have a table of contents and is extremely difficult to navigate. There are a lot of details that are not easy to follow.

Uniform IDEA requirements govern transition planning, which makes examples from other states useful. After a quick Google search, New Jersey's web-based [Transition Toolkit](#) is particularly useful and user-friendly. For example, the Toolkit contains excellent information for conducting transition assessments and lists samples of free and accessible online career interest inventories and surveys.

One example of the Transition Guide that is unusual and complicated concerns the use of an MTSS approach focusing on information gathered for students' vocational/career evaluation process. The Transition Guide identifies three levels to assess this information.

- **Level 1. Minimal intervention.** If the special education teacher finds a student's file lacks sufficient information to determine level of academic/occupational functionality, steps are listed that includes referral to a teacher evaluator for testing/screening, and then referral to the school counselor to write a Transition Student Profile (SAEE-12a). If more information is needed, e.g., the school does not have a teacher evaluator, etc., "the student moves to level 2." (Note, the issue here is not student actions but those of adult support to the student.)
- **Level 2. Moderate intervention.** Here too there are complicated processes for the special education teacher, school counselor, school director (for schools without counselors), written request to the ORE student services manager, facilitator, and if necessary, counseling program director to identify one or more resources for help. If sufficient information is still unavailable, "the student" moves to the next level.
- **Level 3. Meaningful intervention.** The counselor requests a certified vocational/career evaluator (SAEE-03) and requests a COMPU meeting. With parental consent, additional evaluation is conducted. analyze results of the vocational evaluation process.

For students with cognitive disabilities, a so-called MTSS approach is used to develop the student's intensive service plan: 1) minimal intervention (1-2 days/week with push-in or shared teaching); 2) moderate intervention (2-3 days/week with mixed modality or small groups within the classroom); and 3) significant intervention (4-5 days/week with pull-out mode or stations inside the classroom). While these descriptions may be useful, the Transition Guide does not give any content examples associated with these various levels. Importantly, the document does not

include information that would guide the development of community-based work activities that are so important for post-school employment.

## 2. Administrative Support

Reportedly, the area of transition is a priority for the Special Education Department. At the time of our onsite visit, a knowledgeable ORE transition facilitator with a doctorate degree was the proforma PRDE transition coordinator. The position's low salary (below a comparable teacher scale), low applicant interest and knowledge has hampered hiring coordinator and regional facilitator positions. At the time of our review, the facilitator was working in a temporary position. As part of this work, the individual provided training to PEI teachers to orient them on relevant transition requirements and interagency agreements with other relevant government agencies. She also provided information about Transition Guide contents and expectations. Given the material's complexity, the coordinator preferred to train small participant groups, but this was not possible because she has been the only trainer. There is a desire to have training modules for various purposes, such as pre-employment activities, independent living, etc.

## 3. Interviewee Feedback

Interviewees shared the following noteworthy comments –

- **Vocational Assessments.** Although special education teachers may complete Level 1 assessments, Level 2 must be done by a school and Level 3 by vocational rehabilitation staff. The lack of sufficient personnel to conduct the latter two assessments impacts the completion of these assessments and compliance. To the extent feasible, the regional counselor coordinator supports schools without counselors.
- **Regular School Activities.** Each high school may have one or two transition-associated workshops. Students may transfer to another high school with that option. Special education teachers may develop activities to expose students to job market expectations. Options for students depend on each municipality's agreements with other agencies.
- **Vocational Schools.** There are four vocational schools that have a few workshops for SwDs with particular needs. They have application requirements, and their programs are not considered appropriate for students with significant cognitive impairments.
- **Community-based Work Opportunities.** Overall, small businesses have been more willing than large corporations to employ SwDs. Opportunities include community super mercados, pharmacies, cleaning jobs, greeters, handing out fliers, tire companies, etc. Some summer jobs are available through the vocational rehabilitation agency. There is a need to significantly expand work opportunities for students.
- **Student Cognition Consideration.** Generally, community work is available only for students able to work independently.

#### 4. Publicly Available Resources to Support Transition Activities

A variety of U.S. publicly available resources are available to support the development of community-based work and post-secondary opportunities for SwDs, including those with significant cognitive impairments. Following is a small sample of these resources –

##### High School Education and Training Opportunities

This publication from [Washington’s Superintendent of Public Instruction](#) provides an excellent example of an SEA’s on-line tool that provides information focusing on formal/informal education/training opportunity connections between educational, vocational rehabilitation, employment, training, social services, and health services agencies. Of particular interest here is the section on school-based supported employment and work-based learning.

##### Competitive Integrated Employment Toolkit

The State of New Jersey [Transition Toolkit](#) has an overview of competitive integrated employment (CIE), transition services, and interagency collaboration. Of special interest is the section addressing work-based learning (pp. 12-15), which includes examples of apprenticeships, business mentors, career mentoring, career related competitions, informational interviews, internships, job clubs, job shadowing, non-paid work experience, on-the-job training, paid employment, school-based work experience, service learning, volunteering, and work-site tours to learn about necessary job skills. Except for job clubs, these activities may be provided by the Vocational Rehab agency under pre-employment transition services.

##### Inclusive Postsecondary Education for Students with Intellectual Disabilities

This [National Parent Center on Transition and Employment](#) (PACER’s) publication provides important information about the Higher Education Opportunity Act (HEOA). The Act gives students with intellectual disabilities financial aid to attend college programs meeting Comprehensive Transition Program (CTP) requirements, which includes inclusive college courses/internships. In May 2023 there were 310 non-degree university/college campus programs for students with intellectual disabilities. These programs enable students to take college classes, engage in career development and independent living activities, and participate in campus social life. A quick Google search did not identify any such program in Puerto Rico.

#### 5. Implications for Decentralization

Interviewees shared their perception that decentralization would help school personnel develop more and better working experiences for students. Vocational rehabilitation agencies are divided by regions so there is hope parents/children would no longer have to travel to the central office for assistance, which is particularly difficult for parents without transportation. Reportedly, the Department of Health currently has centralized services, but the governor has committed to a process for interagency agreements. A decentralization component to address this issue would be beneficial.

## 6. Summary

The SWD “gold standard” for transition is “real work for real pay.” This requires more than meeting procedural IDEA compliance or those related to Rosa Lydia Vélez Stipulations 85 and 86. While compliance is important, foundational work must create conditions for success. Compliance related processes are meaningful only when programs such as those described above are in place (e.g., meaningful training opportunities, competitive integrated employment opportunities, community-based transition options, and inclusive postsecondary education for students with intellectual disabilities, etc.). These efforts merit focus and attention from central, region, schools, and parents so transition services/activities are based on a foundation of true opportunity.

### F. Professional Learning

There is a significant need for a cohesive professional development plan to provide the necessary support and information to all staff. The top-down and side-to-side communication is poor at best. Examples include state, regional, and school administrators mandating similar professional development or changes made at one level that are not communicated at other levels. There are significant concerns that for special education, professional learning (PL) does not sufficiently address teaching/learning and instead focuses more on compliance and the MiPE special education system. For example, when special education teachers question why they must teach physics to students with poor math skills, relevant PL would help to share meaningful instructional strategies, explain why this subject is important to teach, etc. Given the overriding presence of Rosa Lydia Vélez stipulations, the tendency to emphasize compliance is understandable but concerning.

As in the U.S., Puerto Rico school budgets mostly fund personnel, and little is left over for PL. For the first time, PRDE recently devoted about \$3 million to schools for training, including for special education personnel. While this initiative was too new to receive feedback about its impact, interviewees aware of this activity were positive about its potential.

Interviewees were the primary source of information about PL implementation. As reflected below, many times the information was contradictory and reflected many different experiences based on source (e.g., central/regional offices, and schools), and type (e.g., facilitator, school director, special/general educator, RS provider type, paraprofessional, etc.).

- **PRDE Training Directives.** According to some, central office personnel dictate school-based training content and do not consider school directors’ opinions about school needs. Given this perception, there was support for school directors to have more control over PL and decentralization of this function. An annual school survey, completed by all schools, guides workshop topics to be provided.

- **Central Office Training.** Individual department personnel control PL for their respective areas. This siloed departmental approach, however, does not promote a cross-cutting strategy that leverages resources for common purposes.
- **Special Education [PD Calendar](#).** PRDE provided a calendar to show how PL is offered throughout the school year (August, October, November, January, March, April, June). Rather than a PD calendar, the information was more like a calendar of events. Each month identifies an "awareness" area for a different disability category, but it's not clear what that actually means. A reference states "in accordance with Regulation 9270" but there is no additional information such as a list of topics, objectives, audience, etc.
- **Frequency of Training.** Some interviewees shared they had never received PL, for as much as 12 years or more. Others received PL various times during the year, e.g., twice during the year (at beginning of the school year and in February) to five or six, to eight or nine times each year. Others referenced a special education workshop during the week of our visit. There were also reports of CSEE personnel who train psychologists, special/regular educators, and school-based staff based on school directors' requests. Of special note a special education summit that included special/general educators focused on accommodations and modifications.
- **Special Education Attitudes Impact PL.** There were several examples of how low concern about special education impacted PL. One involved a special education training for about 50 school directors who spent their time on cell phones and did not pay attention. After lunch many did not return for the remaining program. Another example concerned school sessions for teachers. Some shared special education was a consistent topic, and others stated that it was last on the agenda with brief attention.
- **Cross-Region Communication.** Facilitators have not had the opportunity to meet with their peers across regions to share information, promote consistent messages, and share knowledge/resources. Independently, some have contacted peers to share information and support.
- **School Director Training.** At the beginning of the school year school directors received training, which is beginning to address special education. According to some, the content has focused on compliance and has not addressed special education instruction.
- **Trainers.** When special education central office personnel arrange for a company to provide training, the training does not consistently meet school needs. One example related to problem-based training that did not meet personnel expectations. Another was requested for sensory integration, but information concerned autism generally.
- **Training Topics.** Reportedly, special education training predominantly relates to MiPE and Rosa Lydia Vélez-related requirements. Yet some reported workshops on instructional modifications and adapted materials, differentiated instruction, behavior analysis,

technology (assistive, ChatGPT, Kahoot, use of tablets or laptops, etc.), behavior, sign language, etc. Training has also been provided for psychologists, autism certification, teachers of students who are deaf, hearing impaired, or blind. Some expressed concerns that training is repetitive.

- **PL Areas of Need.** PL in the following area were suggested: case management, progress monitoring metrics, instruction for students with autism, integration of technology use in the classroom, disability eligibility, etc. Also, there is a desire for all programs, such as Let's Read for early learning through 5<sup>th</sup> grade, to have an accompanying PL plan that is implemented.
- **Virtual Training.** Frequently, training is provided virtually, through TEAMs, etc. There is a desire for more in-person PL.
- **Training for General Educators.** Although regular classroom teachers may receive special education orientation, because the majority of SwDs are educated in regular classes their teachers must be better trained. Some have received PL from special education facilitators who will provide PL for general educators.
- **Training for Assistants.** These staff members tend to receive information and training from the special education teacher with whom they are working. Some have received PRDE-sponsored workshops, but they were not always useful. There is concern their work is not consistently valued and they welcome more training.

## G. Parent Engagement

A large body of research demonstrates the positive effects of parent-professional collaboration on SwD outcomes.<sup>49</sup> Effective collaboration is often grounded in a strong staff-parent relationship and the combined support of parents and assistants in helping SwDs meet their goals. Many parents want to fully participate in planning for their child(ren) and support changes in services. Nonetheless, collaboration tends to be more difficult when parents are new to the country, and when parents come from poor or low socioeconomic environments.

### 1. SPP Indicator 8. Parent Involvement

SPP Indicator 8 measures the percentage of parents who agreed that schools facilitated their involvement to improve services/results for their children. Puerto Rico's latest 2021-22 SPP showed 83.01 percent of surveyed parents agreed, slightly below the minimum target (84.5%).

The sample response rate (79.9%) was less than the prior year's rate (93.99%). The region response rate varied by 42 percentage points: Arecibo (64%), Bayamón (86%), Caguas (100%),

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<sup>49</sup> Blue-Banning, M., Summers, J. A., Frankland, H. C., Nelson, L. L., & Beegle, G. (2004). Dimensions of Family and Professional Partnerships: Constructive Guidelines for Collaboration. *Exceptional Children*, 70(2), 167-184. <https://doi.org/10.1177/001440290407000203>.

Humacao (95%), Mayaguez (88%), Ponce (74%), and San Juan (58%). PRDE wrote it was difficult to give a definitive reason for the slippage. It stated one reason may have been the short period of time PRDE had to distribute the survey and collect data. The agency had various meetings with its technical assistance provider to receive feedback on its sampling plan. PRDE planned to use various reasonable strategies to increase the response rate, such as closely monitoring response progress by region, and assessing response rates at regular intervals.

## 2. PRDE Description of Parent Training and Support

PRDE shared ways parents receive training and support in special education meetings to promote their meaningful participation. Parents are urged to participate in PRDE's Parent Academies to be actively involved in their children's education, e.g., supporting their homework, attending school meetings, and collaborating with teachers. Parent Academies include training on the transition process; behavioral management strategies for students with Autism Spectrum Disorder (ASD); connecting school, family, and school community; alternatives/strategies for children who are blind and for children who are deaf; sensory behavioral processing disorder impact; personal hygiene and activities of daily living; puberty and adolescence; MiPE and Parent Portal; etc. At the beginning of each school semester, parents may attend Service Fairs to learn about special education services and resources for their children, how to access them, their rights and responsibilities, and collaboration with educational personnel to optimize their children's learning experience.

We note that in addition to these opportunities, as described in *Section VI.D.7. PRDE Personnel and Fiscal Impact* related to fines imposed by Rosa Lydia Vélez sanctions, a substantial number of grants are available to nonprofit organizations to provide parent training and advocacy.

## H. Implications for Decentralization

The Initiative for Decentralization of Education and Autonomy of Regions' September 30, 2023, findings and recommendations (IDEAR Report, Recommendation 4B) contains a recommendation that focuses on special education. The document's Appendix 10.9 describes a proposed decentralization model that would be implemented progressively over four to five years. Information relevant to this section, decentralization guidance addresses broad areas to support achievement, such as services and curricular accommodations, and LEA management of training for special/regular educators with more relevant subject matter to support student needs. Other terms referred to compliance with Rosa Lydia Vélez requirements.

We have used the IDEAR decentralized model as a framework for our recommendations, through this report, identifying as appropriate SEA, LEA, and school planning/action. Also, the last section of this report focuses on decentralization activities and recommendations (*See Section VII. Decentralization Implications for Special Education.*)

#### Recommendation 4. Use SDI Principles to Accelerate Learning

Use the SDI principles below to accelerate learning and guide Recommendation 5 for implementation of improved instructional and behavioral/social-emotional supports to accelerate teaching and learning for SwDs.

- **Have high quality inclusive instruction for young children.** Most 3-to-5-year-old children with disabilities learn best when to the greatest extent possible they attend school with their peers without disabilities. Use these settings to provide both language and behavioral models that promote development and help all children learn to be productively engaged with diverse peers. Research confirms that when children with disabilities are included in regular classroom settings, they: demonstrate higher levels of social play; are more likely to initiate activities; and show substantial gains in key skills, such as cognitive skills, motor skills, and self-help skills.<sup>50</sup>
- **Regular educators teach the majority of SwDs** at least 80 percent of the time. To accelerate the trajectory of achievement, all personnel associated with teaching/learning for general education and special education – from the SEA, to LEAs, to schools must be involved to give personnel the resources they need to be effective and for students to be successful. For SwDs to learn in regular classrooms, teachers must provide core instruction using strategies that account for different ways students learn. This is accomplished by applying [UDL](#) principles, curricular accommodations/modifications, and (as IDEA requires) therapy that assists SwDs to *benefit from* (not simply *in addition to*) their special education. Close collaboration between both general/special education teachers and RS providers aligns with this statutory purpose, which reliance on more expensive and off-site therapy defeats.
- **Flexible resource models** that are sufficiently flexible to accommodate students with small to more intensive needs. The model allows for specially designed instruction (SDI) in regular classrooms. It also allows for separate instruction of small student groups outside the classroom, which may include students from different classrooms based on their common

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<sup>50</sup> *Special Education Task Force Report: Early Learning*. California Department of Education, 2015, <https://www.cde.ca.gov/sp/se/sr/taskforce2015-early.asp>. Accessed 17 July 2024.

needs. These groups may include students with/without disabilities.

- **Use of specially designed instruction (SDI)** that supplements regular classroom instruction (inside or for short time periods outside). Although supplementary services (e.g., curricular accommodations) are important to differentiate instruction, SDI is necessary for targeted learning when student needs (e.g., phonics) are no longer covered by grade-specific curriculum (e.g., 5<sup>th</sup> grade).
- **Decreased time in special classes** by increasing use of the general education 79%-40% category to reduce SwD isolation from nondisabled peers. As included in Recommendation 2, the examination of factors interfering with this action could lead to dramatic improvement. More instruction in general education is meaningless, however, if students are not learning. Importantly, the sum of this work must prepare students for their postsecondary school life, with transition services and activities designed to promote that end.
- **Reduced RS/therapy emphasis** in favor of increased SDI emphasis. The disproportionate use of RS is evidenced by high numbers of PEI-required therapy; associated large personnel requirements; more expensive private providers; services outside students' schools with attendant transportation time/costs; and Rosa Lydia Vélez stipulation attention. Changing this paradigm requires attention and a coordinated campaign to inform stakeholders about the need for and designs for change. (See related information in *Section VI.D. Rosa Lydia Vélez* and its related Recommendation 9. Initiate conversations with parties about modifying the RLV agreement to focus on compliance promoting and not interfering with SwD teaching/learning.

#### **Recommendation 5. Improve SDI and behavioral/social-emotional interventions/supports to accelerate SwD teaching/learning and wellbeing.**

Have an SEA Achievement Leadership Team design a plan for SEA actions that LEAs/schools localize to accelerate teaching/learning and wellbeing for SwDs. The following actions are suggested to achieve this outcome.

##### **a. SEA Achievement Leadership Team**

With a cross-cutting SEA team, including LEA and school representatives, review *Section V. data/contents* and consider the areas below. For these activities, stress “special education alone cannot fix special education.” Rather, it takes contributions of all persons involved in teaching/learning. Identify a project manager with a direct report to the Education Superintendent to track actions and their status. Have the group briefly report areas for action planning, such as those directly below, to the Education Secretary for approval to proceed.

##### **b. Areas for Action Planning**

The following are suggested –

- **Specially designed instruction.** Address Recommendation 4 principles to incorporate them into practice. In particular, address SDI designed to accelerate reading outcomes, including those for students with [dyslexia](#). (In the linked resource, see *Chapter 11: Effective Approaches for Teaching Students with Dyslexia*.)
- **Strategies.** Identify areas for further study and development. Include evidence-based strategies to inform LEAs/schools about relevant activities. For example,
  - **Graduation.** The University of Chicago’s [What Matters for Staying On-Track and Graduating in Chicago Public Schools: A Focus on Students with Disabilities](#) has strategies for SwDs to earn a high school diploma.
  - **Dropout Prevention.** [Practices that may Help Prevent Students with Disabilities from Dropping Out of High School](#) along with information from the [PACER Center website](#) describes supports SwDs to remain in high school.
  - **Absenteeism.** The National Center for Educational Outcomes publication, [Students with Disabilities & Chronic Absenteeism](#), contains strategies for reducing absenteeism.
- **Value of current emphasis on RSs.** Address 1) use of intervention plans for RS (but not for special education); and 2) meeting with parents twice yearly to review RS intervention plans (but once for SDI included in PEIs). (Note: assuming intervention plans are helpful, we are not suggesting they should be used also for SDI with added paperwork. Perhaps streamlined and user-friendly plans for both RS and SDI as PEI addendums may be useful.)
- **Proportion of time for SDI to RS.** Research average per student receipt of PEI minutes for SDI compared to RS. Analyze data by various indicators, such as by LEA, grade, etc., to aid full understanding of their circumstances, how they impact personnel needs, etc. Also, have a full conversation about these results and how they benefit teaching/learning.
- **PEI minutes.** Consider current guidance/practice for identifying PEI-required minutes, such as “Determination of educational environment” first and then assignment of service minutes. (Note: the PEI first lists educational environment location and then lists SDI and RS minutes.) Also consider any relationship between amounts of time students leave school for RS and SDI minute needs. In particular, consider the middle environment “79% to 40% regular education” and how services can be more flexibly arranged to accommodate its greater use. Coordinate with *Recommendation 4*, which includes this issue, and see the [Washington SEA Sample IEP](#) and its Summary of Services Matrix.<sup>51</sup>
- **Role of psychologist.** Gather information to consider the plentiful presence of psychologists in schools (compared to the U.S.), their roles, and capacity to evaluate

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<sup>51</sup>See Model State Forms, 6. Individual Education Programs, c. IEP Form-without Secondary Transition at. Page 7.

student eligibility for special education without reliance on outside contractors (except for schools with no or little psychologist presence).

- **Outsourcing and location of related services.** Consider all factors related to this problem, including providers ability to communicate with teachers about questions during evaluations, participating in eligibility meetings, attending COMPUs, regular collaboration/consulting with special educators; ability to provide services inside students' classrooms (common in the U.S.), available school space, impact on transportation/costs, etc.
- **Unusual therapies.** Needed criteria for animal, aquatic, and other unique therapies.
- **Posting IQ scores on PEIs.** We recommend that the SAEE order this practice to cease.
- **Transition support and practices.** Consider availability of administrative support and salary structure that limits the applicant pool; limitation of community work opportunities for students unable to work independently; etc. See [work-based learning](#) (WBL), which includes students with significant disabilities; WBL for students with [intellectual disabilities](#); competitive employment [toolkit](#); and postsecondary education for students with intellectual disabilities. Consider feasibility of having LEAs coordinate activities with local vocational rehabilitation agencies to support school connections/coordination; and advocacy for interagency agreements with the department of health to access services locally.
- **Provisional remedy.** Consider factors leading to high volume provisional remedies, such as procurement delays, full caseloads, limited teletherapy usage (license for psychologists was about to expire during our on-site review).
- **Professional learning.** Consider factors related to access and quality of PL referenced in the report, such as –
  - Siloed central office approach that fails to leverage cross-cutting strategies and leveraged resources for common purposes.
  - Current PL offerings to LEAs/schools and to contractual RS personnel to align their practices with SEA expectations.
  - Current PL emphasis on curricular accommodations/differentiated instruction compared to SDI.
  - Availability of cross-LEA training for facilitators.
  - Outside training unrelated to school needs.
  - PL areas interviewees cited, such as for general educators/assistants and topics.

- **Parent engagement.** As described in *Section VI.D.7. PRDE Personnel and Fiscal impact*, Rosa Lydia Vélez litigation fees have funded a large amount of parent training and support. See Recommendation 8, related to *Increase awareness of and improve PRDE' Results Driven Accountability (RDA) federal outcomes*, which includes provisions to improve dispute resolution processes.
- **Related Services Guide.** Address guidance for consultation, which limits its frequency to once a month or semester per PEI, and duration for one or two years *at the discretion of the specialist*.
- **Special Education Manual references.** Consider the following areas that the Council SST report noted.
  - **Children 3-5 years of age.** The Special Education Manual's questionable reference to "home" as a "natural environment" and a least restrictive environment. The same is true for services at other locations and references limited to related services. These descriptions do not reflect research emphasizing the benefits of young children's interaction with nondisabled peers, or the use of RSs without reference to the special education they benefit. Furthermore, these locations are not likely to produce the type of outcomes the SPP measures. (See *Section II.A. Outcomes for Children 3 through Years of Age.*)
  - **Modified diploma.** Include parental notice about long-term implications of instruction based on a pathway route for a modified diploma does.
  - **Regular classroom with therapies** instructional model that does not include any reference to special education, which RSs are to benefit.
  - **Regular group model with reduced enrollment** criteria that includes a student's score of 65 or more on a general performance scale. Using these limiting criteria is questionable.
  - **Full time special class description** that does not reference any potential opportunities for SwDs to participate in regular classes as appropriate.
  - **Special room with Route 1 degree promotion (SEP)** that includes the criteria of mild cognitive disabilities. Ensure this criterion does not lead to an automatic SEP designation. If not, reconsider this requirement based on research for students with [mild to moderate](#) and [significant cognitive](#) disabilities.

**c. SEA Action Plans**

With the core team along with others with information to offer, develop an action plan with templates for LEAs and schools for their use. Have the plan include the following–

- **Specified activities.** For each considered area of work the Education Secretary approves, describe how the SEA will address each with sufficient detail to inform follow-up action. This may include collaboration with others having expertise in the area under consideration. Establish time frame parameters for relevant SEA and LEA work.
- **Written expectations.** Identify areas requiring written expectations for the SEA, LEAs and schools. Include revisions of the Special Education Manual and Related Services Guide, as noted, and share new/changed guidance. Publish the manuals on the SAAE's webpage with links to more information. For example, see the Los Angeles Unified School District's [manual](#).
- **Map material/human resources, analyze, and fill gaps.** Establish a template for LEAs/schools to identify their current material/human resources and analyze current needs/gaps. As part of this process, give guidance about identifying current/needed material resources that are evidence-based and those that do not meet this test. Establish a process for reviewing the results and making funding determinations. This may be based on an LEA grant allocation or review of each LEA's submission.
- **Professional learning.** Describe processes for LEAs/schools to identify the PL they need to implement their respective areas of responsibility. Develop an LEA template for this purpose. Describe process for collaborating with LEAs/schools to identify a sufficient number of individuals with expertise (internal to PRDE to the extent possible) to carry out training requirements. Also describe training for SEA/LEA personnel, including school-based staff as appropriate, and technical assistance available for LEAs.
- **Data analysis and monitoring.** Based on action plan activities, identify areas requiring data collection and user-friendly reporting. Specify areas overlapping with SPP and/or Rosa Lydia Vélez data elements. Collect and report overall data based on LEA outcomes; identify systemwide trends for SEA to address; and identify disparate data requiring LEA attention.
- **Walkthrough process.** Establish guidance for school walkthroughs along with an [Implementation Guide](#) for LEAs and school directors.

#### d. LEA Leadership Team and Action Plans

Establish cross-cutting LEA teams similar to the SEA team, including representatives from various sectors.

- **Action plans.** Based on final SEA guidance for each area, draft aligned plans of work, with time frame parameters for relevant schoolwork.
- **Written guidance.** Based on SEA written guidance, identify any area not clear or needing further explanation. Describe guidance with information relevant to schools, e.g., personnel to contact, where to go for information, etc.

- **Map material/human resources, analyze, and fill gaps.** Review school submissions and aggregate results (along with LEA needs); include overall LEA and school cost estimates for SEA review and action.
- **Professional learning** with school input, describe process for providing PL to school-based stakeholders, such as school directors, administrators, regular/special educators, assistants, and RS personnel; and training to parents. Also describe technical assistance and other support available to schools.
- **Data analysis and monitoring.** Describe reports, and available school-based data to support identification of disparate data requiring attention.
- **School walkthroughs.** Adapt SEA guidance for LEA school walkthroughs based on school feedback.

**e. School Leadership Team and Action Plan**

Have a school-based team structure similar to SEA/LEA teams to develop school action plans tailored to improve outcomes in each relevant area.

- **Action plans.** Based on LEA guidance draft plans to support school implementation. Inform LEA about assistance needed to aid implementation.
- **Written guidance.** Localize guidance to support school personnel and parent understanding.
- **Professional learning.** Describe coordination of and direct training for staff members.
- **Data analysis.** Describe school-based data collection and user-friendly reports available for school personnel to identify and address areas raising concern.
- **School walkthroughs.** Conduct school director walkthroughs based on SEA guidance and as adapted by respective LEAs (based on school feedback).

## V. ADMINISTRATIVE AND OPERATIONAL SUPPORT FOR TEACHING AND LEARNING

Under this section, six areas are addressed that are relevant to the administrative and operational support for SwD teaching and learning. These are –

- Central Office SwD Administrative Support
- Regional Offices of Education
- Special Education Service Centers
- Support for School-based Special Education
- Procurement of Materials and Services
- Budget management

### A. Central Office SwD Administrative Support

To effectively leverage district resources for achievement and social/emotional wellbeing of all students, including those with disabilities, it is essential that all central office personnel supporting teaching/learning and school leadership collaborate effectively. In our experience, urban school systems strive to have collaborative structures but in practice tend to operate in silos. We found the same to be true for PRDE.

#### 1. Central Office Organization

Based on PRDE's organizational chart, the SAE reports to the Secretary of Education along with the Undersecretary for Academic/Programmatic Affairs, the Assistant Secretary for Legal/Public Policy Affairs, and the communications office. Another direct report, the Undersecretary of Administration, oversees areas closely connected to special education: complaint processing, provisional remedies, mediation, and administrative judges.

#### Interdepartmental Collaboration

Common among school districts with whom the Council SST has experience, some interviewees perceive PRDE central office personnel for academics and for special education communicate well and that the two groups work together. However, others believe special education operates as a separate entity, and insufficient communication occurs between departments. While there is an understanding that central office decisions involving students should always involve special education, such representation does not consistently happen, resulting in after-the-fact awareness. In addition, frequent leadership position changes lead to poor communication and coordination to address special education needs. With elections every four years and associated new personnel at central and regional levels, staff are challenged to find ways to communicate with them and adapt to different administrative styles.

## 2. Special Education Department

The Special Education organizational chart shows the SAE's supervision of seven units. The chart did not include the number and functions of personnel associated with each area; it identified the following unit responsibilities –

- **Specialties and Regional Support** addresses Section 504, gifted, and double exceptionality; and involves special education service centers.
- **Administration** oversees contracts, transportation scholarships, and general services.
- **Human Resources** (no additional information was provided for this unit).
- **Student, Parent, and Community Services** units provide parent support and dissemination of information.
- **Monitoring and Compliance** units support related services and educational services monitoring, and Rosa Lydia Vélez compliance.
- **Teaching and Technical Assistance** units support teaching, compliance, Mi Portal Especial (MiPE), and quality/data management.
- **Legal Affairs** units include those for conciliation and legal assistance.

Shared information with the Council SST addressed the Special Education Department's annual audit to consider each school's need for special educators/associated personnel, e.g., assistants, etc., and to project allocations for the following school year. MiPE data showing required service frequency and types support this analysis. Interviewees expressed concern about the extent to which the special education department controls the allocation and procurement process. There is a belief that the decentralization process could better support these activities. (This is further discussed at *Section VII. Decentralization Implications for Special Education.*) Also, although there is a unit devoted to teaching and technical assistance, it appears that most functions concern process issues (compliance, MiPE, and quality/data management).

Based on our interviews and document review, it does not appear that the Special Education Department has an active group of persons to support SwDs in terms of teaching/learning. Also, as discussed further below, such groups are absent from OREs and CSEEs. These administrative units are present in the U.S. at both SEA and district levels with varying configurations. Their absence in PRDE's structures leave instructional needs for SwDs insufficiently addressed. Below is one large U.S. model for special education's organizational support.

### Case Study: LAUSD Special Education Organizational Structure

The Los Angeles Unified School District (LAUSD) enrolls 81,962 SwDs, about 9,000 fewer than in Puerto Rico. Its special education organizational structure is a useful case study. Typical of large U.S. school districts, the special education department collaborates with district regional superintendents who supervise principals (i.e., school directors).

Exhibit 5a. LAUSD Special Education Division Directors and Oversight is based on a 28-page description of the division’s organization and functions. The information below describes relevant departmental units, each with a director, and areas of responsibility.

Exhibit 5a. LAUSD Special Education Division Directors and Oversight

DIRECTORS (for each division)						
Early Childhood Special Ed	Instruction/LRE Programs & Parent Engagement	Related Services	Due Process	Special Ed Service Center Operations	Monitoring . Sped Policies/ Procedures	Strategic Planning & Data Management
Intake/Assessment Instructional Support Head Start Sped Infant/Toddler Sped	EC to Grade 12 Core Instruction Moderate/Severe Support Behavior Support, Transition	Speech/Language OT, PT, Adapted PE Psychology, Social Work Assistive Tech	Intervention, Due Process Research/Resolution	Parent/Community Complaint Response Unit Call Center	Consent Decree Compliance Sped Reporting	Specialists Principal Admin. Sr. Admin. Analysts

Two divisions described below have functions particularly relevant for Puerto Rico.

- **Strategic Planning & Data Management.** Strategic meetings are held monthly with department specialists and analysts, along with special education support center administrators. Each meeting focuses on a specific topic while reviewing data, establishing goals, identifying challenges, etc.
- **Instruction/LRE Programs & Parent Engagement (Instruction).** This major division includes decentralized staff who are assigned to each of LAUSD’s local districts, which are similar to PRDE’s educational regions. Also, centralized units support –
  - PreK to grade 12 instruction for students with mild/moderate disabilities who participate in the general education curriculum. They work collaboratively with Department of Instruction staff to support the SwDs receiving core instruction.
  - Students with moderate/severe intellectual disabilities who receive instruction based on an alternate curriculum.
  - Students with behavior challenges.
  - Secondary transition services and activities.
  - Compliance requirements, with staff who work with attorneys and manage independent evaluation requests.
  - Training for general/special educators and assistants.
  - Support selection of appropriate curriculum and instruction, supplemental materials, and give advice during curricular meetings and textbook adoptions.

**At the school level**, a facilitator is assigned to about three elementary schools to support special education related issues. Most of their time is spent on such activities as scheduling *school-based* special education assessments and IEP meetings; facilitating SSPT (Student Support and Progress Team) meetings and IEP meetings; carrying out the district representative role; helping to develop functional behavior assessments; monitoring school compliance related data; and supporting due process and dispute resolution activities. High schools have one specialist each for these activities. As with other school districts, interviewees during a LAUSD special education review expressed the need to have one facilitator per school (depending on enrollment sizes). Each school had a data clerk devoted to the district's special education Modified Consent Decree.

## B. Regional Offices of Education

Seven Regional Offices of Education (OREs) have the following components based on its organizational chart: Human Resources, School Management, Monitoring and Compliance, Academic Matters, and Integrated Support. The special education department funds OREs to recruit/hire school personnel, such as special education teachers, assistants, psychologists, and assign them to schools. School directors push for changes when assigned personnel are not a good fit for their schools. School allocations are based on a centralized human resource (HR) annual analysis of need. HR staff monitor special education enrollment changes during the year to identify allocation changes needed. According to the IDEAR Report the LEA will continue the regional practice of selecting special education personnel. It will also conduct training for teaching and non-teaching staff based on school identification of needs.

Typically, U.S. school districts have centralized control over personnel allocation. However, there has been a shift over the last 25-30 years to have school principals select their staff, including general and special educators. Because it is rare for schools to have their own psychologist or other RS personnel, hiring/assignments to multiple schools are centralized. Centralized HR and budget departments typically collaborate and control actual hiring (although like in Puerto Rico interviewees) complaints typically concern cumbersome processes and delays.

## C. Special Education Service Centers

Each ORE has at least one of 11 Special Education Service Centers (CSEE). Center services include registration, obtaining parent evaluation consents, evaluations, eligibility determination processes, and coordination of therapy services. Personnel also serve as the liaison for parents and their children aged birth to three years transitioning from Part C to B evaluation and services.

### 1. CSEE Organizational Structure

The CSEE organizational chart shows a structure that includes orientation/registration, service coordination, and data quality/management. Three areas show additional units of support -

- **Administration** of invoices, requisitions, transportation scholarships, and general services.
- **Student, parent, and community services**, which provide parent support and administrative complaint oversight.
- **Teaching, technical assistance and services**, which provides support for teaching, compliance, data quality/management, and technology support.

The CSEE chart shows relatively little support for specially designed instruction.

## 2. CSEE Personnel

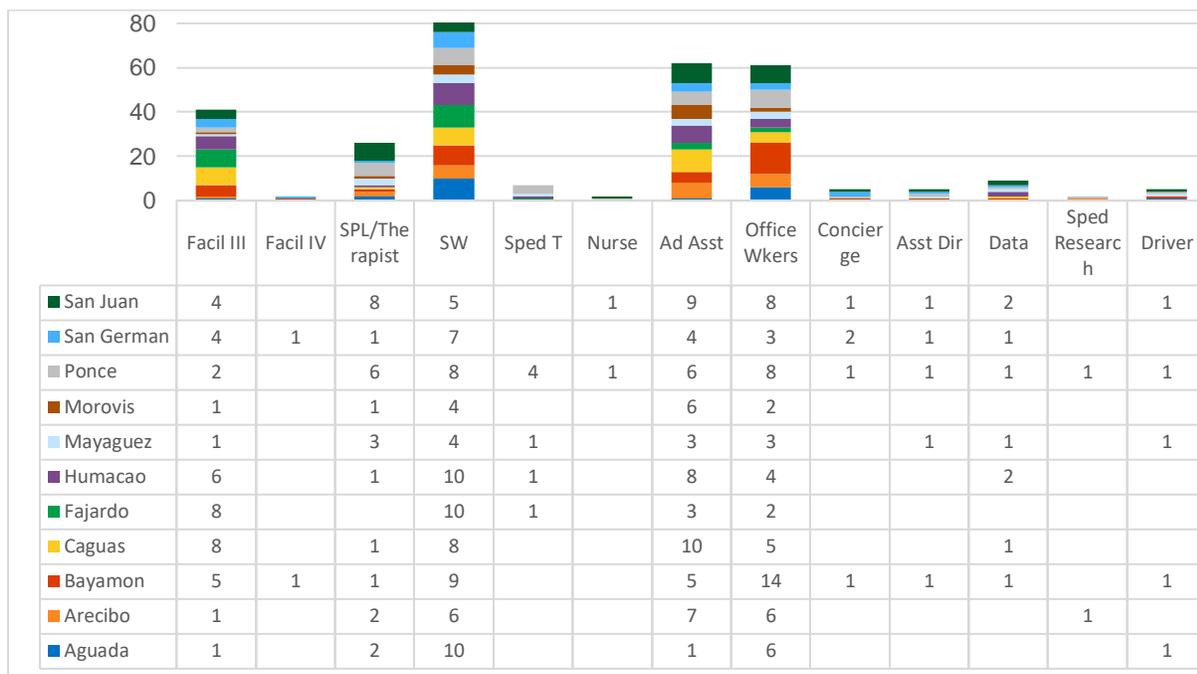
Each CSEE has a director that supervises personnel and provides special leadership for the region's school directors. Reportedly, the CSEE budget lacks any discretionary funds, and the director has little to no control over how budgeted funds can be distributed.

### Assignment of Personnel by CSEE

According to PRDE data, one or more of the following personnel are assigned to CSEEs: facilitators (Facil-III or IV), SPL/speech therapist, special education teacher (Sped T), nurse, administrative assistants (Ad Admin), various office workers (Office Wkers), Concierge, Assistant director (Assist Dir), special education researcher (Sped Research), and driver.

*Exhibit 5b. CSEE Personnel Data by Type and by Center* shows the distribution of personnel across each CSEE. Although one would expect the distribution to vary based on student population differences, the variations are extreme. For example, figures for the following areas for all 11 CSEES are small: nurses (2 CSEEs), facilitator IV (2 CSEEs), and special education teacher (4 CSEEs). The data report did not indicate whether these positions included vacancies.

**Exhibit 5b. CSEE Personnel Data by Type and by Center**



### Facilitator Role and Responsibilities

According to the Special Education Manual, the special education facilitator III prepares and reviews PEIs; coordinate/participates in PEI review meetings; determines where services will be provided; and supports IDEA requirements. Both facilitator III and facilitator IV groups have various responsibilities related to placement. The Manual also specifies that with their directors, teaching facilitators address academic priorities for SwDs, receive requests for technical assistance from special education teachers, etc.

Interviewees report that facilitator caseloads are too high to support school personnel. In one CESE only two facilitators supported 248 schools. Another had two facilitators for 12 municipalities with much different geographic compositions. The two facilitator roles (III and IV) overlap, and their division is artificial. However, merging these positions would not solve the caseload problem that reportedly causes facilitators to act as fire fighters, addressing the most pressing problems first. One anecdote involved a typical day with visits to six schools, beginning at 6:30 am and ending at 5:30 pm.

Interviewees shared their desire to visit schools more often and provide technical assistance (TA) in response to teacher requests. A recent process was published for teachers to ask for TA however without a sufficient number of facilitators their requests are not likely to be fully met.

Facilitator responsibilities shared with the Council SST included –

- Supporting teachers with alternative assessment, student behavior issues, academic interventions, teaching strategies;

- Handling complaints with advocates and lawyers involved;
- Coaching school personnel with school improvement plans;
- Participating in difficult COMPU meetings;
- Participating in eligibility decisions;
- Monitoring compliance progress;
- Supporting school directors' oversight of the special education process;
- Physically checking student file contents and transferring schools from one school to another; and
- Acting as the district representative for issues beyond local school control.

Generally, there is no structure for facilitators to communicate regularly or receive training across regions. They contact their peers for feedback or additional information. Facilitators participate in regional workshops on issues involving compliance and differentiated inclusion but reported none related to specially designed instruction. Several interviewees expressed great satisfaction with their work, but they would be more successful with additional personnel, particularly some with expertise in the area of autism. Reportedly, the government budget office was asked to approve more facilitators, but a response was not yet available at the time of our onsite visit.

### Salary Levels

According to interviewees, facilitators' average monthly salary (\$2,300) is less than half those of school psychologists (\$5,000). As a result, qualified individuals have no financial incentive to move to administrative positions that are accompanied by more responsibilities but with broader impact. One-time bonuses are not accompanied by annual raises. (Reportedly, the same salary discrepancy applies to directors.) This issue impacts facilitator vacancies, high quality applicant pools, and difficulty filling vacancies. These circumstances make it more difficult for facilitators to fulfill their job-related responsibilities and expectations. An interesting anecdote concerned a principal who also worked after hours as a facilitator, reflecting the pressing need for individuals to fill these positions.

### School-based Special Education Facilitators

Reportedly, for many years facilitators were school-based and supported the special education process, which enabled special educators to focus on instruction. A 2016 administration change and new public policy removed facilitators from schools and their responsibilities were transferred to teachers.

### Value Placed on School-based Support for Special Education

As previously discussed and explored in more detail further below (*VI.RLV Stipulations, Compliance, and Impact on Teaching/Learning*), the current Puerto Rico value for special

education school-based support, especially for teaching/learning, is questionable. PRDE spends a large amount of money for Rosa Lydia Vélez implementation/monitoring activities and noncompliance penalty fees prohibit directing additional resources to improve teaching/learning. It is probable that sufficient funding would be available to support school-based instructional and compliant practices with front-loaded personnel support, such as those facilitators would provide.

#### **D. School-based Administration and Operation of Special Education**

This section addresses school-based administration and operation of special education from the perspective of school directors, teachers, and school assistants, and personnel shortage challenges. Interviewees, especially with educators, school assistants, and RS personnel, shared their commitment to SwDs and providing services they need and to which they are entitled.

##### **1. School Directors**

School directors receive professional development monthly, but reportedly topics were primarily legal in nature, focusing on processes and Rosa Lydia Vélez associated material. Interviewees shared anecdotes of directors who saw special education as totally separate from general education and were not interested in furthering their learning beyond these legal requirements. Yet others spoke of directors who made their schools feel like a private school.

When given written guidance, technical assistance and training along with appropriate human and material resources, it is important for school directors to be accountable for their leadership and expected practices.

##### **2. Special Educators**

Interviewees repeatedly stressed that teachers must complete many responsibilities, including typical tasks and others Rosa Lydia Vélez supplemental supplement, removing their attention from instruction. As a result, some perceived that school assistants spend more time teaching than special educators. Various interviewees referenced facilitators as the personnel group that could perform these and associated tasks so they could teach.

##### **3. School Assistants**

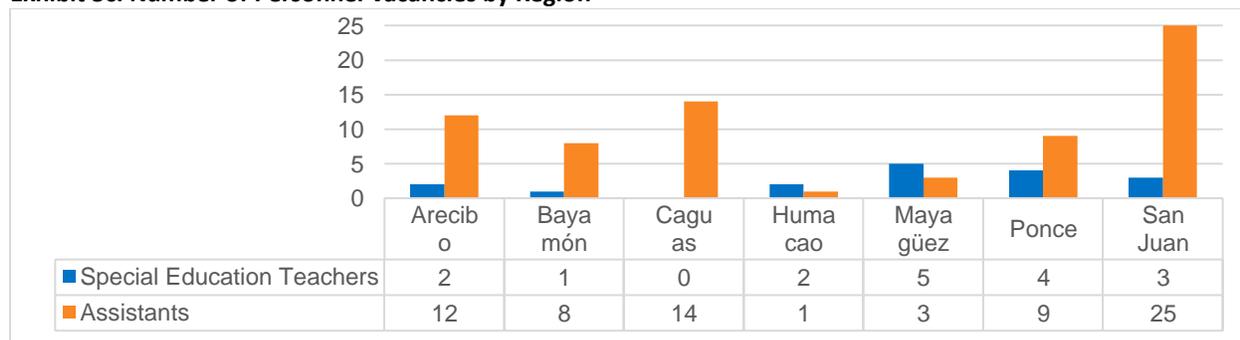
As a group, school assistants enjoyed their work although they did not consistently feel they were valued by others. A major concern related to their very low salary, which some viewed as below the minimum wage of \$9.50 per hour. Reportedly, assistants could earn more money working at businesses such as Walmart and their contract-based status is less certain than employment status. Furthermore, there were reports that new assistants have to wait two months to receive their first paycheck. A common response was that these circumstances lead to high turnover rates.

Another interviewee theme concerned assistants not sufficiently prepared to carry out their responsibilities. There were reports of some with a high school diploma and little experience but responsible for supporting students with challenging behavior; with needs for feeding, hygiene, toileting; and with needs for reading, writing, and mathematics. Some referenced the availability of workshops, but we did not receive information that described offerings, their accessibility, or any attendance requirements.

#### 4. Staff Shortages

*Exhibit 5c. Number of Personnel Vacancies by Region* shows a higher number of assistants than special education teachers have vacant positions. Although no vacancies were reported for psychologists, SLP/therapists, nurses, social workers, OTs, or PTs, interviewees referred to shortages. One reason for the lack of vacancies may be related to high use of contractual personnel. Reportedly, substitutes typically are available for special educators and service assistants.

**Exhibit 5c. Number of Personnel Vacancies by Region**



Additional noteworthy comments addressed the following –

- Recruitment is negatively impacted by low salaries and fewer university programs to fill the need. Instead of active recruitment, vacancies are posted, and administrators wait for responses.
- Too few school psychologists are available to conduct special education evaluations, provide therapy, and support students without disabilities. The continued reliance on outside psychological evaluators without aggressive steps to reduce such reliance is problematic.

**Recommendation 6. Promote SEA collaboration, enhance SAEE office operations, increase LEA support to schools, and authorize school director selection of full-time staff.**

PRDE faces challenges typical of large educational systems, including organizational silos, frequent leadership changes, and resource allocation issues. Addressing these challenges involves enhancing interdepartmental collaboration, empowering LEA and school-level decision-making within a centralized framework and prioritizing instructional support and professional learning alongside compliance. The following suggestions are intended to promote collaboration among SEA departments, enhance special education department operations, and increase LEA support to schools.

**a. SEA Interdepartmental Collaboration**

Consider the following areas for interdepartmental collaboration.

- **General and Special Education.** Establish mechanisms to maximize interdepartmental collaboration between central office departments with oversight for general academic areas and special education to leverage their collective resources to support activities that include those in these recommendations. For example, collaboration is essential to develop and implement an MTSS framework that Recommendation 1 describes. This is true also for activities designed to improve SwD instruction in regular classes.
- **Curriculum Support.** Consider housing in the curriculum department one or more individuals with knowledge about SwD instruction involving curricular accommodations and differentiated instruction, with continued direct report to the SAEE's department.
- **Institutionalize Practices.** To the extent possible, have a written record of ways in which the SEA and regions operate to minimize disruptions due to administration changes. Although changes are most likely unavoidable, consider ways school support can continue uninterrupted.

**b. SAEE/Special Education Department<sup>52</sup>**

Consider the following to improve the Special Education department's operation and administration of special education.

- **Compare the SAEE office to the LAUSD configurations** reflected in *Exhibit 5a. LAUSD Special Education Division Directors and Respective Oversight*. As appropriate, have the SAEE recommend appropriate changes for SAEE and LEA organizations to better support school activities.

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<sup>52</sup> Some responsibilities may require SEA authority and the SAEE may authorize others. Establish the appropriate level of authority when considering this set of recommendations.

- **Revise the annual audit of school-based personnel and improve support to LEA/schools** by incorporating LEA and school feedback. Have the SAEE draft simple templates to collect suggestions for LEAs to collate feedback and submit to the SAEE for consideration. Institutionalize the process through use of formal feedback loops for the SAEE to quickly address unanticipated consequences related to guidance and directives.

**c. LEAs**

Consider the following actions to improve LEA support for school administration and operation of special education/related services. Anticipating changes associated with decentralization, some of which are addressed in *Section VII. Decentralization Implications for Special Education*, consider the following suggestions as part of this process.

- **Identify appropriate LEA personnel needed to support school-based T/L.** For each LEA identify administrators, such as facilitators, available to support school-based administration of instructional practices for SwDs (i.e., apart from such operations as registration, evaluation coordination, eligibility determinations, etc.) Assess with **school** input the additional support they need for training, technical assistance, and improved instruction necessary to accelerate SwD achievement. Forward this information to the **SAEE** for consideration of funding opportunities. As part of this process consider *Exhibit 5a. CSEE Personnel Data by Type and by Center* data showing variances by LEA.
- **Establish appropriate levels of personnel to support special education associated operations.** In anticipation of school-based responsibility changes associated with decentralization, consider the following to help ensure sufficient personnel are available to perform expected responsibilities/practices, including registration, coordinating evaluations, and supporting eligibility and COMPU meetings.

In particular, for **facilitators**, consider the following activities to ensure they are well prepared and adequately available to carry out current and new responsibilities under decentralization.

- **Evaluate facilitator responsibilities** with a process for them to meet and document consideration of their current responsibilities, how well they have been able to carry them out with current staffing, and how decentralization will impact their ability to carry out revised expectations. If this information would reasonably require additional staff, have each LEA document the basis for their conclusions. Have the LEAs forward this information to the SAEE to analyze and propose appropriate action. As part of this process, ensure facilitator allocation to LEAs and schools is proportionate to student/teacher needs.
- **Training.** Have facilitators document the training they require to carry out their new decentralization roles for LEA and SAEE consideration/action.

- **Salary Structure.** Have the SAE’s office, with appropriate HR personnel, study the salary structure for facilitators based on their responsibilities, and the extent to which current salary levels are appropriate to improve recruitment efforts and increase applicant pool quality to fill vacant positions. As part of this process, evaluate the public policy associated with level 3 and level 4 facilitator roles and whether this differentiation is justified.
- **Student-Personnel Ratios.** Ensure that personnel who support SwDs are employed in appropriate numbers and are available to meet student needs. On a regular basis with SEA/SEAA, LEA, and associated finance personnel, review the staffing ratios summarized in this report. (See data associated with *Section IV.C.2.*) *Note: Relatively low or high student-to-personnel ratios do not necessarily mean that any given area is staffed inappropriately; however, the ratios should prompt further review of areas with exceptionally low students to personnel ratios.*

### **Recommendation 7. Improve school-based special education administration and operations to empower school directors and support their leadership capabilities.**

Research shows principals who focus on instructional issues, actively support special education, and provide high-quality professional development for teachers produce enhanced outcomes for SwD and for others at risk for school failure.<sup>53</sup> School director leadership influences the extent to which teachers and specialists have the capacity to develop/implement interventions designed to improve student performance. For this purpose, directors must receive the PL they need for this practice. Unable to select their own staff, principals are denied a primary tool to build their school community.

#### **a. School Director Leadership**

To support and further empower school director leadership, have the SEA consider the following actions –

- **Power to Select Staff for Hire.** Have the SEA commit to an authorization for school directors to select full-time school-based personnel, including regular and special educators, assistants, and RS personnel. Have a process for directors to submit their selections directly to personnel responsible for the ordinary hiring process. This would include ensuring selected personnel possess qualifications required for respective positions, such as licensure. To support this action, establish processes for the SEA and LEAs to share with school directors pre-screened credentialed applicant pools for their

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<sup>53</sup> *Principals and Special Education: The Critical Role of School Leaders*. New York State Education Department, 2023, <https://www.nysed.gov/sites/default/files/principal-project-principals-and-special-education-the-critical-role-of-school-leaders.pdf>. Accessed 17 July 2024.

review and interview. Also, ensure hiring processes are as streamlined as possible to avoid delays when funds have been budgeted for requested positions.

- **Professional Learning.** Have LEAs survey school directors for PL they need, e.g., to improve SwD instruction. Supplement this information with LEA data showing specific school needs. Based on LEA feedback, have the SEA establish a PRDE-wide PL program for school directors with common needs. Also, have LEAs do the same for unique issues facing their school directors. For PL relevant to SwD instruction in regular classrooms, have regular and special education experts collaborate to develop a curriculum and coordinate training. Include such topics as co-teaching, specialized reading approaches, support for students with behavior challenges.
- **School Support.** Have LEAs survey current staff to consider the extent to which a sufficient number exists to adequately support school director leadership through, e.g., consultation, technical assistance, and problem-solving. Report gaps to the SEA/SAEE for follow-up action.

#### b. Special Educators

Based on a common SEA template survey, have school directors provide feedback to LEAs about administrative tasks interfering with special educators' focus on instruction. Based on LEA aggregated feedback, have the SAEE assess and act on any personnel changes needed to better support special educators.

#### c. School Assistants

Have SEA review/take action to address the school assistant salary structure and its relationship to their recruitment and retention. Also –

- Have school directors survey assistants and special educators to identify assistant training needs.
- Have the SAEE use this information to establish PRDE-wide training materials available to LEAs and schools for common issues.
- Have LEAs establish training for unique cross-school issues.
- Have directors arrange training uniquely relevant to their schools.

#### d. Staff Shortages

Have the SEA establish staffing needs overall and by LEA for special educators, assistants, and RS providers to expedite recruitment and retention practices. Immediately support LEA efforts to fill vacant positions and increase applicant pools. As part of this process, have the SEA work with universities to investigate/act on programs designed to increase the pool of qualified applicants. For example, U.S. school districts commonly fund “Grow Your Own” programs for school assistants to earn special educator credentials. These typically include a

commitment to continue employment for a time period with payback provisions for breaches. Others begin with high school students to promote their interest in special education. See, for example, a national review of Grow Your Own [programs](#).

**e. Related Service Personnel**

Have the SEA commit to a four-year phased-in plan to hire a sufficient number of RS personnel to eliminate primary reliance on outside providers.

## VI. SPECIAL EDUCATION ACCOUNTABILITY MEASURES

This section addresses the following processes used to hold PRDE accountable for special education –

- A. Federal Results Driven Accountability
- B. Dispute Resolution Process
- D. Rosa Lydia Vélez Considerations

### A. Federal Results Driven Accountability

Since 2014, the U.S. Department of Education’s Office of Special Education Programs (OSEP) has used its Results Driven Accountability (RDA) framework to make annual IDEA determinations for SEAs. Two sets of data (performance results and compliance) produce an overall rating. On June 23, 2023, OSEP notified PRDE of its “needs assistance” rating for 2021-22 data. This rating was based on a 70.63 percent score: performance results (55.56%) and compliance (85.71%). Of 50 states, Puerto Rico, and other entities measured, [data](#) showed 23 met requirements, 35 needed assistance, and 2 needed intervention.

*Exhibit 6a. IDEA Results Driven Accountability Matrices and Rating* shows PRDE performance and compliance outcomes. This information also shows PRDE timely and accurately submitted state-reported data and issued almost all due process hearing decisions on time (99.33%). Also, the agency had no longstanding issues of noncompliance or special conditions. However, no state complaint decisions were timely issued (0.00%). This issue is addressed below in *Section VI.B. Dispute Resolution for State Administrative Complaints and Due Process Hearings*.

**Exhibit 6a. IDEA Results Driven Accountability Matrices and Rating**

	Indicator	Performance %	Score
<b>Reading</b>	Grade 4 NAEP Participation (1 pt max)	94	1
	Grade 8 NAEP Participation (2 pts max)	94	1
	Grade 4 Sate Participation (2 pts max)	93	2
	Grade 8 State Participation (2 pts max)	94	2
<b>Math</b>	Grade 4 NAEP Participation (1 pt max)	100	0
	Grade 8 NAEP Participation (1 pt max)	100	1
	Grade 4 Sate Participation (2 pts max)	93	2
	Grade 8 State Participation (2 pts max)	94	2
	Grade 4 ≥ % NAEP Basic	33	0
	Grade 8 ≥ % NAEP Basic	20	1
<b>Exit Data</b>	Graduation Rate (2 pts max)	62	0
	Dropout Rate (2 pts max)	31	0
<b>Compliance Indicators</b>	Timely Evaluations	96.8	2
	IEPs Developed/Implemented by 3 <sup>rd</sup> Birthday	96.03	2
	Secondary Transition	97.62	2

	Indicator	Performance %	Score
Timeliness	Timely/Accurate State-Reported Data	100	2
	Timely State Complaint Decisions	0.0	0
	Timely Due Process Hearing Decisions	99.33	2
	Longstanding Noncompliance		
	Special Conditions	None	
	Uncorrected	None	

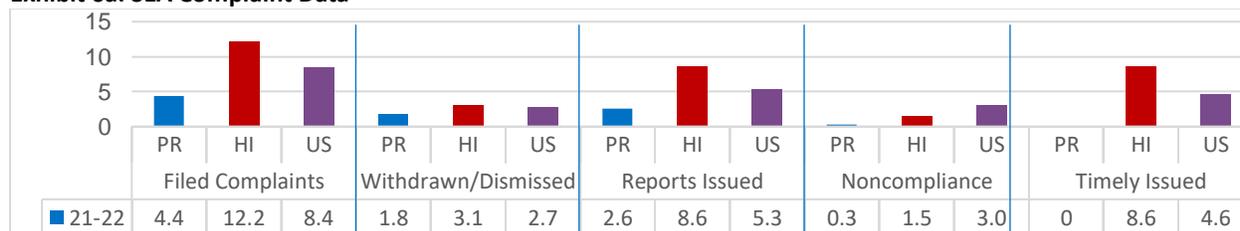
## B. Dispute Resolution Processes

The federally funded Center for Appropriate Special Education Dispute Resolution (CADRE) website publishes [data](#) for states, outlying areas, and freely associated states (U.S.). We used latest data for 2021-22 (reported November 2023) to compare PR and states for SEA filed complaints, mediation, and due process. The reported data in each area refers to a *number of events per 10,000 SwDs*, which supports comparisons proportionate to SwDs.

### 1. Written SEA Complaints

IDEA requires each SEA to have a complaint process for parents to file, investigate, make findings, and require corrective action when needed. Like Puerto Rico, Hawaii serves as both the SEA and LEA, making comparative data informative. *Exhibit 6a. SEA Complaint Data compares* Puerto Rico, Hawaii (HI) and U.S. outcomes.

Exhibit 6a. SEA Complaint Data



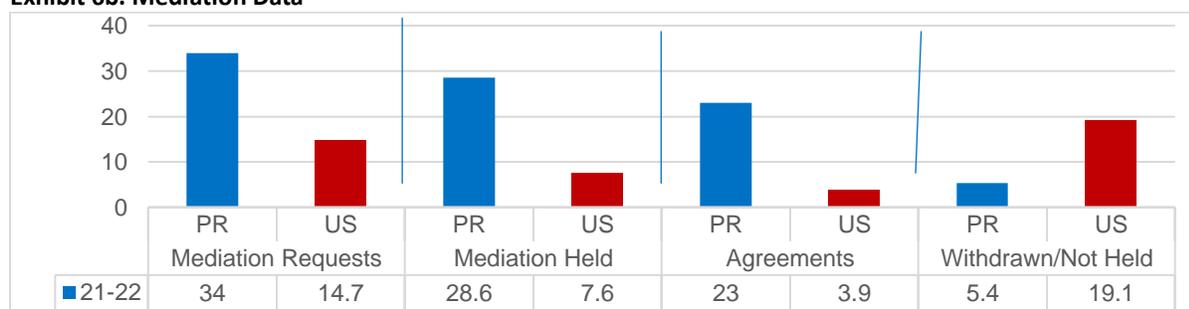
- **SEA Complaints Filed.** With 39 written complaints, PR had fewer per 10,000 SwDs (4.4) than Hawaii (12.2), and the U.S. (8.4).
- **Reports Issued.** Subtracting the number withdrawn/or dismissed complaints, PR issued the fewest reports (2.6) compared to Hawaii (8.5) and the U.S. (5.3).
- **Noncompliance Findings.** PR had a fewer number of noncompliance findings (0.3 per 10,000 SwD) and smaller percentage (12%) based on reports compared to Hawaii (1.5, 17%) and the U.S. (3.0, 57%).
- **Timeliness.** PRDE issued no complaint reports in a timely manner, compared to higher figures for Hawaii (8.6) and the U.S. (4.6).

PRDE’s relatively low proportionate receipt of complaints compared to due process (DP) hearing requests (see 3. *Due Process Hearing Requests*, relatively low findings of noncompliance, and untimely practices merit further inquiry.)

## 2. Mediation

Mediation is available to parents in various circumstances. After requesting a DP hearing, a parent may request an SEA-sponsored mediation after a resolution meeting is waived by agreement or as an alternative to requesting a DP hearing or filing an SEA complaint. In 2021-22 PRDE received 304 mediation requests. *Exhibit 6b. Mediation Data* shows PR compared to the U.S. had proportionately more requested (34 to 14.7), more held (28.6 to 7.6), and more agreements reached (23 to 3.9).

**Exhibit 6b. Mediation Data**



*Exhibit 6c. Mediations/Agreements Held Unrelated to DP Hearings* shows Puerto Rico held no mediations unrelated to a DP hearing request and thus no agreements were reached under these circumstances. By comparison U.S. data shows 3.4 mediations held and 2.4 agreements reached. Although the Special Education Manual refers to the opportunity for mediation outside mediation, unless this data was not reported accurately the expansion of mediation appears to be an area of opportunity for the resolution of disputes.

**Exhibit 6c. Mediations/Agreements Held Unrelated to DP Hearings**

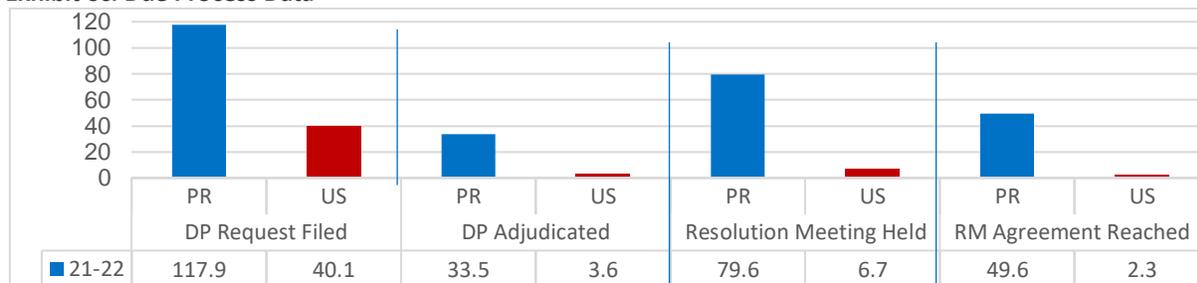


## 3. Due Process Hearing Requests

Figures in *Exhibit 6c. Due Process Data* show the very high number of requests per 10,000 SwDs filed in PR (117.9) compared to the U.S. (40.1). Of these, those that went to hearing and were

adjudicated (decided) for the two groups were 33.5 to 3.6, respectively. A larger number of resolution meetings were held for PR (79.6) compared to the U.S. (6.7) and a larger number and percentage of meetings resulted in resolution for PR (49.6, 62%) compared to the U.S. (2.3, 34%).

Exhibit 6c. Due Process Data

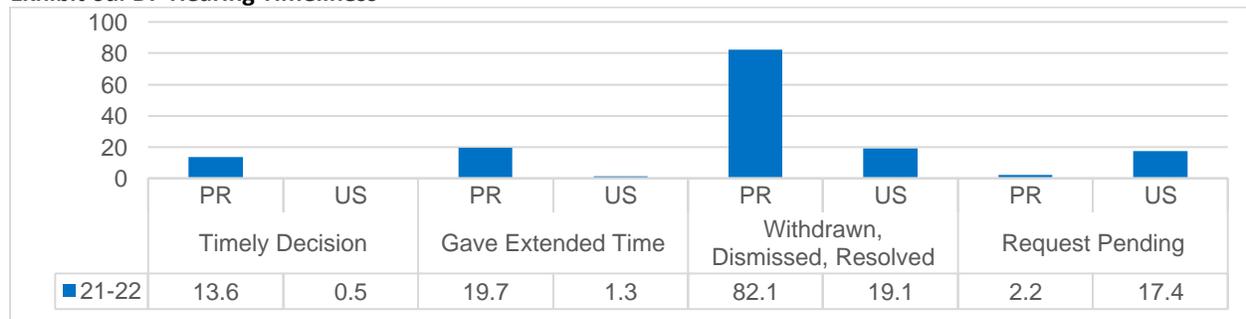


Puerto Rico’s proportionate number of hearing requests was only behind NYC (348.6) and DC (165.5). One interesting note is that unlike other states, New York has a state education law that grants individual entitlements to SwDs in private schools for reasons unrelated to an appropriate education. This factor may account for the high level of hearings requested in that state.

Timeliness of DP Hearings

Exhibit 6d. DP Hearing Timeliness shows PR had proportionately more timely hearings (13.6) compared to the U.S. (0.5). Also, PR compared to the U.S. had many fewer requests pending at the end of the 2021-22 school year (2.2 to 17.4).

Exhibit 6d. DP Hearing Timeliness



DP Hearing Filings for 2022-23 and 2023-24

PRDE shared detailed hearing data for the 2022-23 and 2023-24 school year. This data showed the following –

- In 2022-23, there were **1,522 hearings requested**, or **168.3** requests per 10,000 SwDs, compared to **117.9** from the prior school year. (See Exhibit 6c. Due Process Data)
- In 2023-24, ending on March 18, 2024, there were **1,271 hearing requests**. Assuming that about as many hearings were requested from then to the end of June as the prior school year (413), PRDE would be on track to receive about 1,684 hearings, or **168.4** requests per 10,000

SwDs.

#### 4. 2023-24 DP Hearing Request Characteristics

PRDE’s 2023-24 DP hearing request data file included hearing request figures by region, status, school type, and issues. These are summarized below.

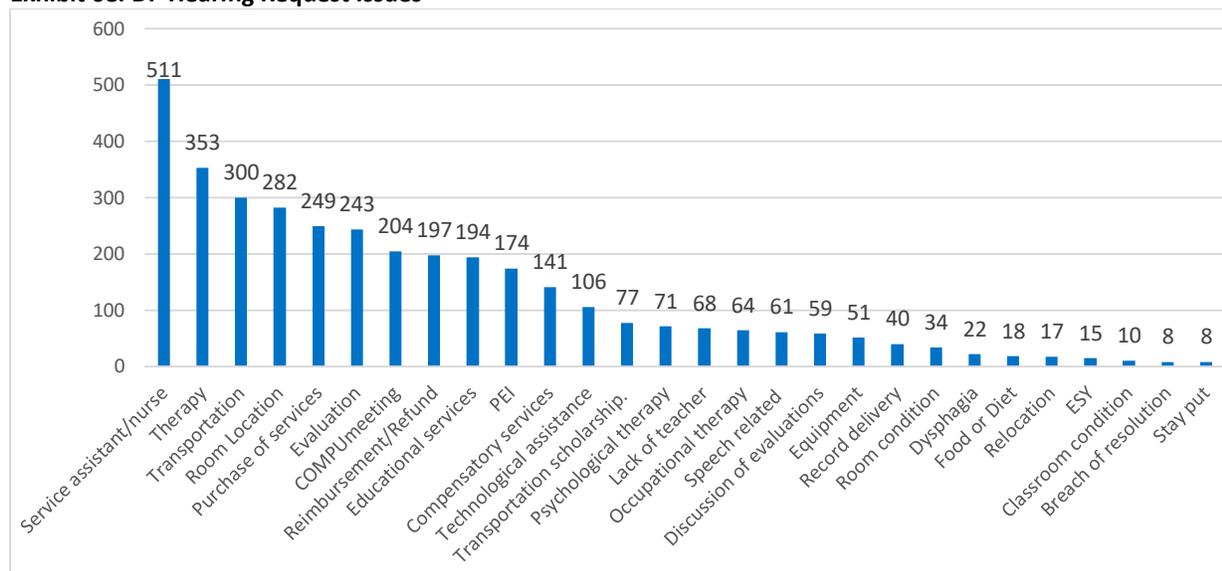
##### DP Hearing Issues

Although the PRDE database listed issues, they were listed with text boxes that are not analyzed easily. As an example, the following shows text boxes for two students –

SERVICE ASSISTANT/NURSE, PURCHASE OF SERVICES, REIMBURSEMENT, TECHNOLOGICAL ASSISTANCE EVALUATION, TRANSPORTATION, LOCATION, ABA EVALUATION, SPEECH THERAPY, DYSPHAGIA THERAPY, EDUCATION THERAPY, EQUIPMENT, COMPENSATORY SERVICES-THERAPIES, COMPENSATION FOR EDUCATIONAL SERVICES, COMPU MEETING, DELIVERY OF FILE
PURCHASE OF SERVICES, EQUIPMENT, EXTENDED SCHOOL YEAR, DISCUSSION OF EVALUATIONS, FOOD OR DIET, DYSPHAGIA THERAPY, AQUATIC THERAPY, PHYSICAL THERAPY, PSYCHOLOGICAL THERAPY, SPEECH THERAPY, SERVICE ASSISTANT/NURSE, RECORD DELIVERY, TRANSPORTATION, TECHNOLOGICAL ASSISTANCE EVALUATION, COMPENSATIONSERVICES, REIMBURSEMENT, OCCUPATIONAL THERAPY, COMPU MEETING

Entering data by fields would support analysis by issue, region, and schools to better identify areas requiring attention. To get a sense of the issues producing 2023-24 hearing requests, we merged and copied onto a Word document the PRDE database and used the word search function. This process produced the information in *Exhibit 6e. DP Hearing Request Issues*. The 29 issues that appeared to be listed most frequently produced 3,577 total entries. Of these, the most common were service assistant/nurse (511, 14%) and therapy (353, 10%).

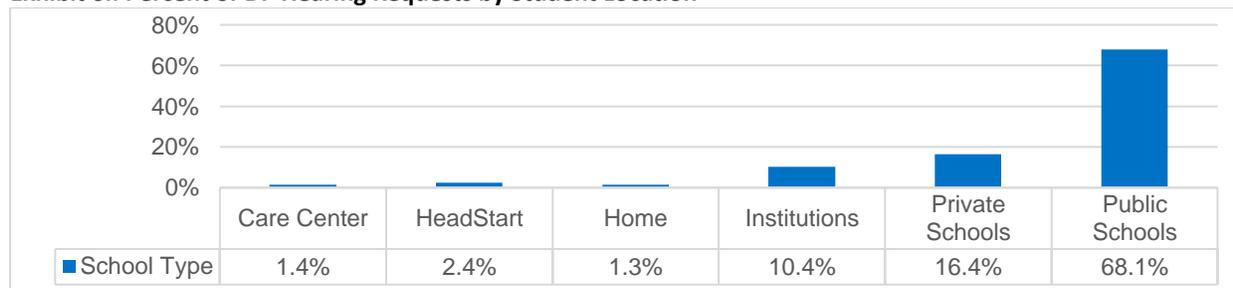
**Exhibit 6e. DP Hearing Request Issues**



### Student Location

Exhibit 6f. Percent of DP Hearing Requests by Student Location shows most requests were for public school students (68.1%), followed by private schools (16.4%), institutions (10.4%), HeadStart (2.4%), and care centers (1.4%) and homes (1.3%).

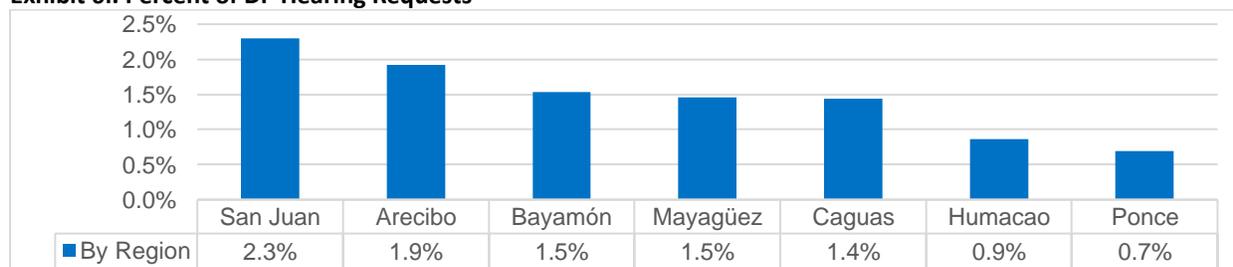
Exhibit 6f. Percent of DP Hearing Requests by Student Location



### Region DP Hearing Requests Per SwD Count

Exhibit 6f. Percent of DP Hearing Requests are based on each region’s SwDs enrollment. Their respective percentages in descending order were San Juan (2.3%), Arcibo (1.9%), Bayamón and Mayagüez (each 1.5%), Caguas (1.4%), Humacao (0.9%), and Ponce (0.7%). Together San Juan and Arcibo represent 4.2% of their total SwD count.

Exhibit 6f. Percent of DP Hearing Requests

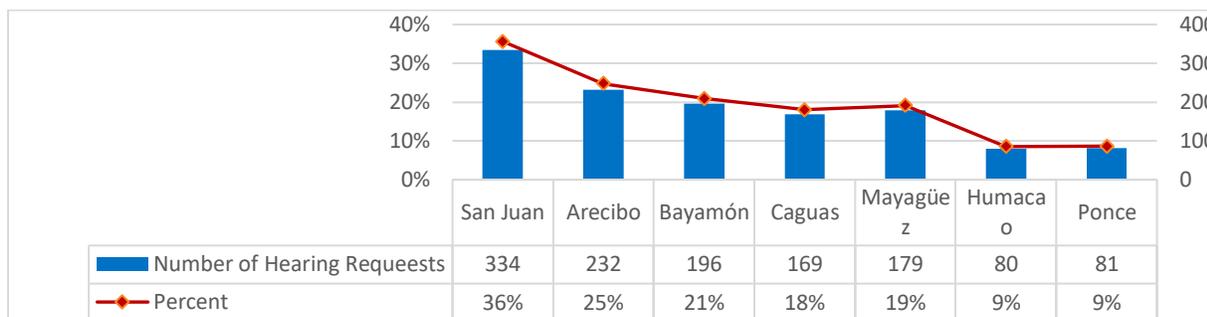


### Number of DP Hearings Filed and Rates by Region

Exhibit 6g. Number of DP Hearing Filed and Rate by Region shows San Juan and Arcibo together received 562 DP hearing requests (61%) of all requests. As addressed below, the high proportion for these two regions may be influenced by data in Exhibit 6h below, showing a portion of students only in these two regions with attorney representation.

Exhibit 6g. Number of DP Hearings Filed and Rate by Region

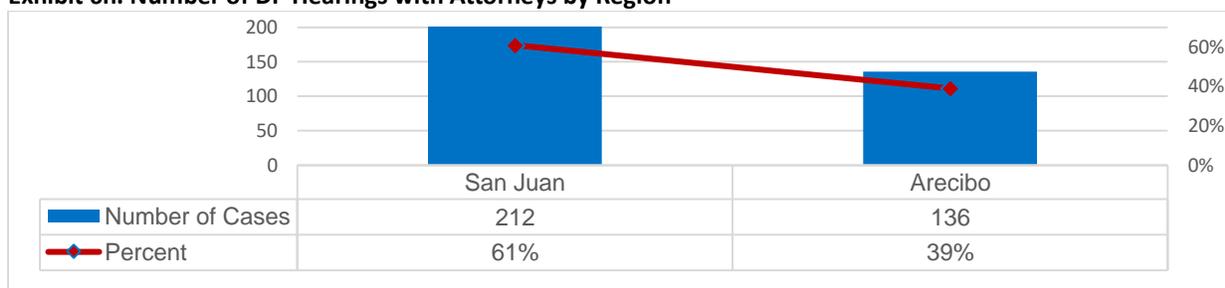
**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**



**Number of DP Hearings Filed with Parent Attorney and Rates by Region**

Exhibit 6h. Number of DP Hearings with Attorneys by Region show only the regions of San Juan (61%) and Bayamón (39%) had data reflecting students with attorney representation.

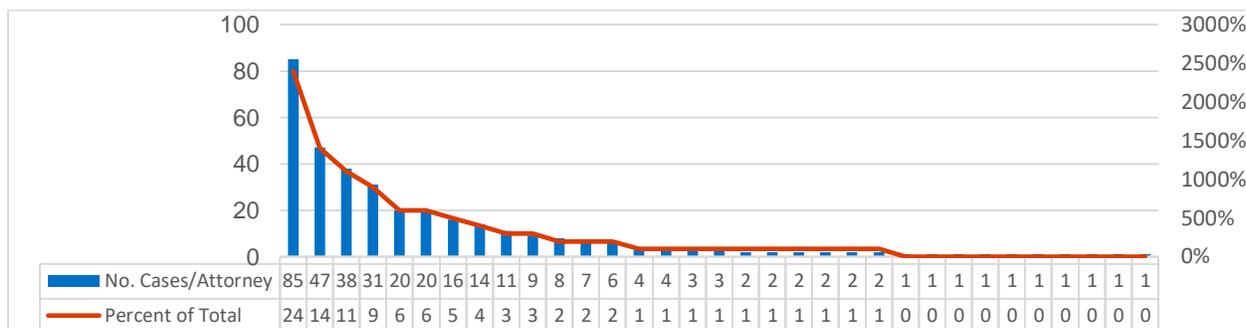
**Exhibit 6h. Number of DP Hearings with Attorneys by Region**



**DP Hearing Requests with Attorney Representation**

Figures in Exhibit 6i. Number and Percent of DP Cases by Attorney show data for 33 attorneys or firms based on names listed in PRDE’s data base. Overall, 349 DP hearing requests were represented by attorneys (27.4%). Of these, four (1.1%) represented more than half (58%) of attorneys who represented students. According to interviewees, most attorneys will take cases with very little money paid upfront and they rely on PRDE attorney fees awarded for agreements reached or successful DP hearing decisions. Regarding the fees charged to parents for representing them, PRDE is unaware of the fees charged. On the other hand, it should be noted that Agency lawyers work in established schedules and do not depend on whether the case is won or lost.

**Exhibit 6i. Number and Percent of DP Cases by Attorney**



### Interviewee Feedback

Interviewees shared the following noteworthy perceptions about why parents request due process hearings –

- Parents do not like alternative methods to resolve disputes and immediately want to go to a hearing. They do not understand that IDEA requires PRDE representatives and parents to attend a resolution (or conciliation) meeting after a hearing request is filed to determine if they can resolve the dispute without proceeding to a hearing. PRDE and the parent may agree to waive the meeting and instead attend a mediation session. This misunderstanding, however, may increase parent concern about the process.
- Procurement delays sabotage reconciliation agreements when agreed upon services cannot be promptly put into place. Some regional offices will encourage parents to complain because they believe that will expedite resolution.
- Parent attorneys at COMPU meetings may influence a parent’s desire to obtain private services. (See *Exhibit 6e. Due Process Hearing Request Issues* that shows 249 requests (7%) reflected this issue.) Under these circumstances, it typically is difficult to reach agreement and extensions are requested.
- It is perceived that due process administrative law judges (ALJ) have a parent bias, and rule overwhelmingly in their favor. The PRDE database does not include fields to show hearing results by issue or overall, e.g., partial ruling in favor of parent (or PRDE), etc. Concerns were expressed that an ALJ may be sympathetic about a particular student’s circumstances and award services beyond those typically appropriate and available to other students. IDEA is based on this individual student needs approach, and absent highly extraordinary circumstances, it does not allow consideration of costs or material/personnel resources available when applied to all students with similar characteristics and needs.

By comparison to this Puerto Rico perception, according to Perry Zirkel, a professor at Lehigh University who studies special education law, families win DP hearing cases only about one-

third of the time.<sup>54</sup>

#### 4. Puerto Rico and PRDE Legal Special Education Administration

Puerto Rico and PRDE are not organized in a manner to effectively manage legal matters related to special education. Based on our interviews and research, we learned the following about the involvement of Puerto Rico's Department of Justice (DOJ) and PRDE's special education legal support.

##### Department of Justice

DOJ handles litigation for cases filed against PRDE, such as claims for money damages. About eight or nine attorneys are assigned for these purposes. We asked an interviewee about any consideration that has been given to appealing unfavorable ALJ decisions to federal court. The interviewee responded that Puerto Rico Law 38 ("Commonwealth of Puerto Rico Uniform Administrative Procedures Act") requires administrative cases to be appealed in state court. However, a review of that statute does not appear to confirm that proposition as applied to IDEA cases. There may be misconceptions about the application of the PR Administrative Procedures Act versus IDEA.

An important consideration is whether DOJ attorneys are available and have the expertise to represent PRDE in special education cases that are likely to be quite complex. Also, there is the perception that the agency does not have any interest in this area. For example, even for important Rosa Lydia Vélez court hearings, DOJ attorneys seem to be unwilling to represent PRDE and the agency must fund private contractors for this purpose. Parents also favor state court for their appeals of ALJ decisions with a perception that this forum is more favorable to them than federal court. DOJ handles litigation for cases filed against the PRDE, such as claims for money damages. About eight or nine attorneys are assigned for these purposes.

##### PRDE Legal Division

PRDE's Legal Division (Secretariat of Legal and Public Policy Matters) has departments for such areas as contracts, civil rights, policy, complaints, and legal matters. Complaints involve filings against individuals and legal matters involve administrative cases, such as personnel cases. Neither department addresses special education issues like those in schools with which the Council SST is familiar. Thus, the Legal Division appears to be completely removed from all special education legal matters, making it unlikely that PRDE and the Special Education Department has a comprehensive legal strategy.

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<sup>54</sup> Salaz, Lee V. Gaines and Crystal. "Indiana Due Process School Disputes Leave Families of Students with Disabilities in Limbo." *WFYI*, 12 June 2023, <https://www.wfyi.org/news/articles/indiana-due-process-school-disputes-students-with-disabilities-pces>. Accessed 17 July 2024.

## Special Education Legal Affairs Department

The Special Education Department has a Legal Affairs unit with a compliance and monitoring director that reports directly to Deputy Secretary for Special Education. The unit employs about three to five attorneys and additional contract attorneys are hired based on need. In our experience, this number of attorneys is very low given PRDE's due process and compliance challenges. The level of support does not seem sufficient to provide special education central office, regional and school-based personnel the back-up they most likely need to meet with parent attorneys, help to analyze individual fact patterns and compliance vulnerabilities, provide training, etc. For example, when asked about the process for appealing unfavorable due process hearing appeals, there was a perception that the Rosa Lydia Vélez case governs this matter.

### Training for Special Education Attorneys

It does not appear that workshops, conferences, or Continuing Legal Education options are available to PRDE's special education lawyers specific to legal and compliance issues. If information accurately portrays contracted attorneys changing with each PRDE administration, we wonder if special education expertise/knowledge is a requirement for securing a contract. In our experience, it is essential that special education attorneys' matters are highly trained and have experience in this area. The legal complexity and depth of knowledge required is not easily acquired.

## 5. Implications for Decentralization

Written documentation and PRDE representatives did not specifically address how decentralization would support special education compliance and dispute resolution processes. Interviewees believed that regional facilitators would continue to support schools to address administrative complaints filed with the central office and the conciliation process associated with DP hearing requests. Some shared a goal of establishing a legal affairs representative in each region, expanding their current presence in three regions, who would report to both the legal affairs unit and regional superintendent. The newly established LEA would have accountability for special education matters, but it was unclear if processes have been established for handling administrative complaints, providing training, etc. At present we have lawyers located in some ORE. However, they have not been instructed in relation to the processes and the fulfillment of the Special Education Program. There was a desire for regions to have more well-trained individuals available to proactively address potential complaints and to resolve them expeditiously.

### D. Rosa Lydia Vélez Considerations

The special education program in Puerto Rico presents some of the most significant challenges in the United States. The Rosa Lydia Vélez case, which was decided in 2002, imposes 87 stipulations or tasks on Puerto Rico's Department of Education

to provide services to students with disabilities, which exacerbate the conditions and timeframes for providing services.

Final Report Puerto Rico Commission for the Transformation of the Special Education Program (December 28, 2016)

Based on the information we reviewed and interviewees we spoke to, the Commission's finding remains accurate. The current list of 77 stipulations, most with numerous criteria that must be individually met by various student groups, is too long to include in the body of this report. (See *Appendix B* for a complete stipulation list.)

This section of the report summarizes the many ways Rosa Lydia Vélez (RLV) requirements have hindered progress related to SwD achievement and wellbeing. Clearly there has been progress with meeting timelines and procedural requirements. Council SST members include those with federal and state compliance monitoring experience, and all value the importance of compliant practices. However, in Puerto Rico the multitude of human activities taken, and funds expended, for compliance growth is incomparable and has come with a cost to student support. Our two on-site visits with PRDE central, regional, and school personnel included many conversations about ways RLV compliance activities have interfered with their capacity to focus on everyday teaching/learning activities for SwDs and ability to plan/act on improvement strategies.

During these discussions, interviewees expressed grave concerns about the amount of time personnel must devote to RLV-associated time-consuming administrative tasks. This work takes their time away from communicating more with parents and providing instruction. It has required PL to concentrate on RLV-related compliance requirements and reduced time to focus on instruction. At the same time, parents of children with disabilities and their advocates are frustrated by service provision delays. When asked about PRDE's strategy to comply with RLV, the response was simply to comply with the stipulations at the 100% requirement. However, interviewees perceive that personnel shortages and other challenges make this goal one impossible to meet.

Over the past 20 years during Council SSTs special education reviews, we have interviewed many individuals in urban districts who have been frustrated by compliance activities neither aligned with instruction nor designed to increase achievement. However, none of these districts come close to operating under requirements comparable to RLV's. This includes large urban school districts operating under extensive special education federal consent decrees. Generally, we heard that it has been difficult to change the RLV focus from its decades-long focus on related service compliance, which appears to minimize for parents the importance of high-quality instruction. They believe that the public's investment in the case makes it difficult to have discussions that would lead to any change.

### Case Study: LAUSD Modified Consent Decree

A Council SST member has illustrative experience with one school district, Los Angeles Unified School District (LAUSD), against which a comprehensive special education federal class action was filed in 1993. The initial consent decree was based on a 10-month review by two independent consultants who found 23 areas of noncompliance. The decree required a community planning committee with 14 subcommittees to develop 30 separate implementation plans. By 2000, the independent monitor's office had 11 full-time employees and 20 consultants, and two years later the two consent decree administrators had approved no plan.

Based on a growing belief that the consent decree structure was unworkable, the parties hired Dr. Thomas Hehir, former U.S. Department of Education (OSEP) director, who successfully helped to renegotiate the consent decree terms. The modified consent decree (MCD) was approved in May 2003. In 2019, 16 years later, the parties stipulated the MCD's termination. The Independent Monitor's final 2019 report included his thought-provoking assessment of the MCD's Successes, Challenges, and Lessons Learned. One relevant lesson he shared follows –

After 16 years of third-party federal court oversight, one of the biggest failures of the MCD has been the emphasis on the documentation of services, which has overshadowed the intent of the law to ensure students receive quality services that result in educational benefit and access to the LRE. Substantial compliance will be achieved only when the system can provide quality services that benefit students while holding the District accountable to these obligations. The current model places a high value on compliance and quantity of services; *this needs to shift to emphasize service quality and educational benefit.*<sup>55</sup> (Emphasis added.)

With this lesson in mind, the following sections address some of the most challenging RLV-related activities.

#### 1. Timeline Stipulations Related to Registration through PEI Implementation

Eleven stipulations relate to meeting time frames for registration, evaluation, completing the PEI, placement and RS implementation. These are listed with simplified language in *Exhibit 6j. Stipulations with Time Frames for Registration through Placement/RS.*

##### Exhibit 6j. Stipulations with Time Frames for Registration through Placement/RS

<p><b>Stipulation 24. Registration process</b> completed on same day. If submitted documents are not complete, provided are not complete. Because SAEE does not have a mechanism to identify registrations timely completed due to issues outside agency control, e.g., insufficient documentation submitted, incidents are counted as noncompliant. (13 data tables)</p>
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<sup>55</sup> *Independent Monitor's Comprehensive Review of Special Education Services in Los Angeles Unified School District.* Office of the Independent Monitor, 12 Dec. 2019, <https://oimla.com/pdf/20191212/1.pdf>. Accessed 17 July 2024.

**Stipulation 4. Evaluation completed** within 30 days of registration by region and separately by public, private, preschool, placed in home, care centers, Head Start, and collaborative agreements. Data for these groups apply to most of the stipulations below. (5 data tables)

**Stipulation 5. Eligibility determined** within 50 days from registration and **PEI completed** by 60<sup>th</sup> day from registration. Each element is measured separately by the above groups and by reasons for delays outside agency control. (11 data tables)

**Stipulation 29. Eligibility determined** within 50 days from registration and **PEI completed** between 51-60 days. (2 data tables)

**Stipulation 6. PEI completed and placement/related services offered** within 30 calendar days of eligibility and no more than 60 days from registration. (4 tables)

**Stipulation 32. PEI, placement, and RS offered** by 30 calendar days of eligibility and within 60 calendar days following registration. (4 data tables)

**Stipulation 40. Related services** provided to eligible students by established PEI terms. (22 data tables, including initial PEI, amended PEI, annual review of PEI for all, parentally placed in private schools, and by court or administrative judge.)

**Stipulation 41. PEI completed and RS offered promptly or through interim relief**, if eligible. (36 data tables)

**Stipulation 42. Parent disagrees with some PEI RS minutes** different from prior PEI, a) may agree to provide agreed upon RS, b) document how dispute will be addressed, i.e., mediation, administrative complaint, or c) request DP hearing. (18 data tables)

These 11 stipulations require 115 data tables that disaggregate data by many different variables, such as region, public, private, preschool, home, care centers, Head Start, and collaborative agreements. The granular nature of this data is puzzling and unlike any we have seen required by the U.S. Department's Office for Civil Rights or Office of Special Education Programs, SEAs, court-ordered agreements or consent decrees. Furthermore, several stipulations have overlapping outcomes. For example, both Stipulation 40 and 41 address RS timely delivery and together require 58 separate data tables. Further, Stipulation 42 includes three criteria involving parent disagreement with new PEIs having a portion of RS minutes different from the last. IDEA establishes various resolution processes for parents (not the SEA or LEA) to follow. The stipulation's compliance requirement for PRDE is questionable.

These stipulations require measurement of small components within larger processes by multiple indicators, which require enormous resources to collect, analyze, and produce 115 different tables for these stipulations alone. This data does not produce any information about underlying conditions giving rise to untimely activities, evaluation and eligibility decision-making quality, and high registration requests, or inform the quality of COMPU considerations of SDI, RS needs, etc. Furthermore, these time counting measures are unrelated to the practice of SDI designed to accelerate learning in such areas as reading and math. Based on our interviews we believe there are many within central and regional offices and schools who want to engage in activities

designed to address the above, but they are put aside by the demands of data collection and other activities needed to carry out RLV requirements.

## 2. RLV Related Services Emphasis

Stipulation 40 requires PRDE to directly or through contract provide RS to entitled SwDs, through provisional relief if necessary. PRDE’s 2022-23 Monitoring Report for this stipulation required for each RS area (22 total) the number/percentage of on-time offers for three types of PEIs (initial, amended, and annual). In our experience the extensive disaggregation required is unusual. *Exhibit 6l. Stipulation 40 - Related Services Recommended/Timely Received* shows a sample of reported data. It is unclear why assessments are included as they are not a RS under IDEA.

**Exhibit 6l. Stipulation 40 - Related Services Recommended/Timely Received**

	Initial PEI		Amended PEI		Annual PEI	
	Number	% Offered	Number	% Offered	Number	% Offered
Educational Scholarships	*		25	93%	3864	92%
Therapy Scholarships	12	100%	24198	89%	6285	94%
Educational Carrier	28	43%	1670	69%	5324	87%
Regular Transportation	*	76%	252	68%	4177	78%
Speech/Language Assessment	58	87%	439	81%	14562	83%
Speech/Language Therapy	6649	50%	5932	81%	1746	80%
Hearing Evaluation	909	63%	63	60%	195	56%
Interpreter	1	100%	7	71%	195	62%
Psychological Evaluation	6461	81%	1283	80%	45398	79%
Psychological Therapy	4656	36%	8652	68%	66411	74%
Physical Therapy Evaluation	738	57%	134	53%	2658	53%
Physical Therapy	155	46%	1118	66%	5456	67%
Occupational Assessment	6697	79%	478	68%	19128	70%
Occupational Therapy	912	43%	9120	62%	51980	66%
Early Identification Service	1119	99%	85	86%	356	99%
Rehabilitation Counseling	664	100%	1484	100%	48,191	100%
Medical Services	0	12%	*	21%	2,444	11%
Nursing	316	33%	*	94%	384	99%
Social Work in School	5584	100%	2713	100%	83,128	100%
Parent Counselling/Guidance	0	n/a	0	n/a	91,836	n/a
Medical Device Monitor	37	68%	877	74%	7,131	92%
Other	2768	76%	1726	57%	10,484	67%
		<b>Rate of Students with Recommendation Offered RS</b>	<b>71%</b>	<b>81%</b>		<b>85.3%</b>

\*Data was not reported.

The specificity of the above data enabled the Council SST to calculate average RSs required per student ratios by comparing RS totals and each area’s figures to the SwD count. *Exhibit 6m. Stipulation 40-Overall Average Number of RSs Per SwDs* presents these calculated ratios by the

three disaggregated PEI types (initial, amended, and annual). This shows that per student there were 3.39 RS from initial PEIs, 2.7 RSs from amended PEIs, and 5.2 RSs from annual PEIs.

Exhibit 6m. Stipulation 40 – Overall Average Number of RSs Per SwD s

	Initial PEI	Amended PEI	Annual PEI
All SwDs Per Area	11,650	26,132	103,018
Number RS Recommended	39,476	70,636	532,077
<b>Number Average RS Per 1 Student</b>	<b>3.39</b>	<b>2.7</b>	<b>5.2</b>

Exhibit 6n. Stipulation 40-Percentage of RSs by PEI Type shows the percentage of RSs recommended (by area) compared to the SWD count by PEI type. It is noteworthy but unclear why the most noteworthy RS percentages were for amended and annual PEIs. Highest percentages by area for the three PEI types for are –

- **Initial PEI.** Speech/language therapy (57%), PT (40%), OT assessment (57%), and social work in school (48%).
- **Amended PEI.** Speech/language therapy (23%), PT (33%), and PT (35%)
- **Annual PEI.** PT (64%), OT (50%), rehabilitation counseling (80%), social work in school (89%), and parent counseling/guidance (89%). Although older students are likely to receive rehabilitation counseling for transition services, this rate seems to be unusually high.

Exhibit 6n. Stipulation 40 – Percentage of RSs Recommended by PEI Type

	Percentage of Counted Students by RS		
	Initial PEI	Amended PEI	Annual PEI
Educational Scholarships		*	4%
Therapy Scholarships	0.1%	93%	6%
Educational Carrier	0.2%	6%	5%
Regular Transportation		1%	4%
Speech/Language Assessment	0.5%	2%	14%
Speech/Language Therapy	<b>57%</b>	<b>23%</b>	2%
Hearing Evaluation	8%	0.2%	0.2%
Interpreter		0.03%	0.2%
Psychological Evaluation	55%	4%	44%
Psychological Therapy	<b>40%</b>	<b>33%</b>	<b>64%</b>
Physical Therapy Evaluation	6%	1%	3%
Physical Therapy	1%	4%	5%
Occupational Therapy Assessment	<b>57%</b>	2%	19%
Occupational Therapy	8%	<b>35%</b>	<b>50%</b>
Early Identification Service	10%	0.30%	0.3%
Rehabilitation Counseling	6%	6.0%	47%
Medical Services			2.0%

	Percentage of Counted Students by RS		
	Initial PEI	Amended PEI	Annual PEI
Nursing	3%		0.4%
Social Work in School	<b>48%</b>	10%	<b>89%</b>
Parent Counseling/Guidance			<b>89%</b>
Medical Device Monitor	0.3%	3%	7%
Other	24%	7%	10%

As discussed above at *Section IV.C.1. Related Services Data*, PRDE has lower ratios (fewer SWDs to RS provider) than the 81 other school districts for which the Council SST has data: psychology (by 174 pp), speech (by 89 pp), nurse (by 75pp), social work (by 187pp), and OT (by 295pp). (See *Exhibit 4j. Number of District Survey Respondents & Percentage with Ratios and SwD Rates Smaller than PRDE.*) Also, data shown above (*Exhibit 4e. Percent of Students Receiving Related Services by Type and by Region*) show the large RS rates students receive in Puerto Rico. Although rates ranged by region, they were consistently higher than we expected for psychological services (between 34% and 38%) and OT (26% to 29%).

These high RS rates feed Puerto Rico’s overreliance on private corporations that serve students off-site, which may include time during the school day and removal from learning.

### Month of May for Annual PEIs

Another issue interviewees raised that caught our attention concerned their perception that all annual PEI reviews must be done in May. PRDE representatives responded to our inquiry about this practice and shared a February 8, 2024 SAAE [memorandum for PEIs and service plans \(SPs\)](#) for 2024-25. This document establishes that PEI draft proposals would begin on February 12, 2024. From March 15 to May 31, 2024, COMPUs would have PEI discussions for the 2024-2025 school year. It also addressed time frames for graduating students and for the dismissal process (students completing their fourth year of high school or reaching the age of majority).

Of special note, the document contains a detailed 7-page work plan that for each time period identifies responsible staff and tasks to be done. In addition, there is a work plan form for each school with an example of a completed form. The contents include each work team and their participants (e.g., three), the number of PEIs for 2023-24 (85) and for 2024-25 (98), the number of PEIs assigned to each team (e.g., 25 to 115), the average number of PEIs each day (e.g., 2 to 5), and the distribution of completed and signed documents from March to June (6 to 63). Also, the form shows situations that could affect the preparation of the PEIs and PSs, requiring the ORE to intervene, e.g., maternity leave). This document is signed by the school director and submitted to the Regional Education Office (ORE).

In addition to the offer of assistance to teaching and administrative staff, the memorandum described monitoring exercises and inaction or deficiency accountability measures.

F. The staff of the SAEE Monitoring and Compliance Unit in collaboration with ORE staff will be carrying out several monitoring exercises before, during and after the review period. This, with the purpose of guaranteeing that the processes are carried out as established in the "Special Education Procedures Manual" (2020) and to promptly address any deficiency or limitation in the work plans. Thus, it is instructed that inaction or deficiency on the part of DEPR officials in this responsibility will lead to the activation of the procedure for the application of corrective measures, as established in Regulation 7565 "Corrective measures and disciplinary actions." The evaluation of teaching and administrative staff could be affected, or in the case of contractors, the SAEE reserves the right to terminate the contract, not renew it, or both. (Page 4)

We have several comments about the above information.

- The detail of the work plan description and form for each school to complete is stunning and reflects PRDE's commitment to meeting requirements for holding annual PEIs/service plans. We do not have information about the application of such detailed work plans to other areas. However, this plan shows how at least one process requirement can become overwhelming and remove attention from teaching/learning.
- The SAEE's commitment to technical assistance and accountability shows the department's commitment to compliance. Such accountability provisions are not typically (but should be) included in U.S. written notices to school personnel.
- Although interviewee perceptions that May PEI meetings were not correct, the Spring schedule is still restrictive and is over a few months only. Depending on the number of PEIs and service plans to be completed and signed, the volume is likely great. Under this model, COMPU meetings for school personnel take precedence over other responsibilities. Also, because of high PEI numbers, interviewees shared their perception that meetings are rushed to meet deadlines.

### 3. Stipulations Related to Secondary Transition and Transportation Timeliness

Interviewees shared concerns about stipulations related to secondary transition, and transportation. These issues are addressed below.

#### Secondary Transition

Three transition stipulations, which require 34 data tables and a qualitative report, are –

- **Stipulation 85. Transition activities** carried out as required (10 data reports);
- **Stipulation 86. PRDE follow up** with other agency responsibilities when agreements not met (24 data reports); and
- **Stipulation 87. PRDE investigation/study transition alternatives with other agencies** for

students who due to their condition are not directed toward world of work (qualitative report).

Interviewees expressed concern that PRDE will never be able to reach full data compliance. They repeated feedback previously shared by others that too much of their time must be devoted to administrative work and explaining noncompliance. These activities leave insufficient time to collaborate with other agencies and research/support community-based work sites for SwDs students. While PRDE is meeting transition evaluation requirements they struggle to meet the very important area of work experience, which is time intensive and requires more than they have available. PRDE's [transition report](#) addresses efforts to work with other agencies.

### Transportation

Ten stipulations for transportation, which require 39 data tables, are listed in *Exhibit 60. Transportation Related Stipulations*.

#### Exhibit 60. Transportation Stipulations

- |  |
|--|
| <p><b>Stipulation 48. When interferes with RS</b>, ensure services continue without interruption [1 data table showing 12 students SEA wide, with 3 (79%) untimely resolved.] <i>Note, the low figures exaggerate the compliance problem.</i></p> <p><b>Stipulation 54. Provide as required</b> and for therapies when outside school campus (14 data tables)</p> <p><b>Stipulation 55. With ramps, etc.</b>, inside/outside school campus (12 data tables)</p> <p><b>Stipulation 56. Extracurricular activities, etc.</b> 63,449 students eligible; 85.6% compliance. (1 table)</p> <p><b>Stipulation 57.</b> Vehicles and porters meet safety criteria (2 tables, 100% compliance for both)</p> <p><b>Stipulation 58. Not limited to traditional</b> contracted public carriers (3 data tables)</p> <p><b>Stipulation 59.</b> For evaluation when transportation problem interferes with service (1 table, 10 of 14,046 students identified and issue resolved)</p> <p><b>Stipulation 65. Timely porter service</b> to eligible students (3 data tables)</p> <p><b>Stipulation 66.</b> Porter transportation per PEI (1 table)</p> <p><b>Stipulation 67. Disseminate</b> route notice/auction for adequate service through school year (1 table)</p> |
|--|

Typically, municipalities provide transportation services. Contractual carriers transport students: 1) to related services appointments outside the school; 2) having significant needs; and/or 3) require assistants on the bus. Interviewees shared transportation challenges common also to US school districts, such as problematic routes due to distance and/or location, controlling vendors, modifying routes for students changing schools, etc. There is a goal of implementing transportation within five days.

Interviewees reported that electronic platforms have improved staff ability to locate transportation routes. They can quickly arrange a new service when a current route is available. New routes require a new contract that ORE personnel must send to the central office for approval/signature and wait for funding. Noteworthy interviewee concerns listed below are not unique to Puerto Rico -

- A transportation portal is available to regional superintendents and transportation directors. However, delays occur when transportation directors have not uploaded data. Currently, MiPE platforms have been merged with SMTE (Transportation Platform), allowing greater visibility, to identify that a special education student has not received the service promptly.
- Currently, there are two data platforms for transportation. The process would be easier with one platform.
- Delayed notice to PRDE personnel by municipalities representatives for students they cannot transport delays the student's service start date.

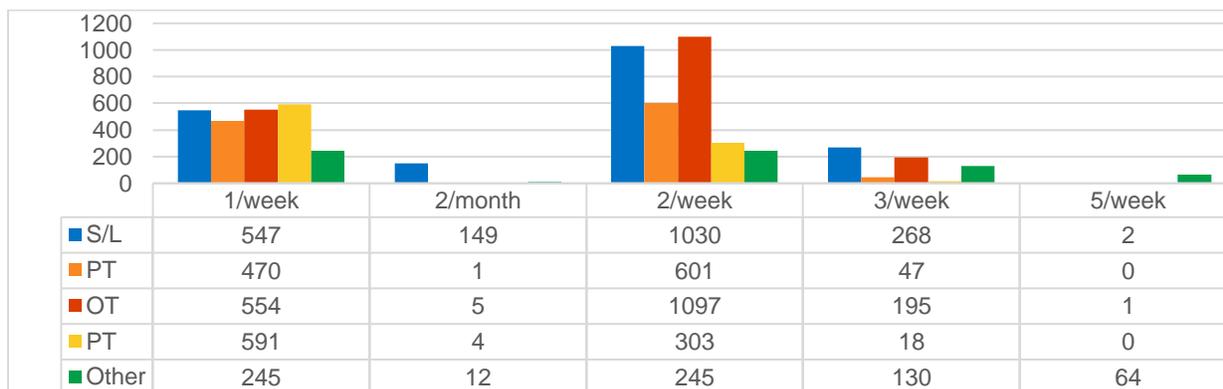
Overall, improved communication between all parties involved appears to be warranted. There were reports of payments of up to \$30,000 per student to remedy noncompliance.

#### SwDs Transported for RS to Locations Away from Schools

PRDE data showing the number of SwDs transported for RSs located off-site reflects a challenge not shared by U.S. school districts with which we have experience. Overall, 6,621 SwDs are transported on different schedules (e.g., 1-5 times/week, etc.) and to many different locations. *Exhibit 6p. Transportation Frequency by RS Type* shows services 1 to 5 times/week, and 2/month. Data reflected other frequencies (4/week, 1/month, 3/month, and biweekly) but those amounts were small. SwDs were most commonly transported 2/week for OT (1,097), speech/language (1,030), and PT (601). The intensities of these schedules are not common in the U.S.

**Exhibit 6p. Transportation by Frequency and by RS Area**

**Improving Teaching/Learning for Students with Disabilities & Other Diverse Learners including Decentralization Implications**

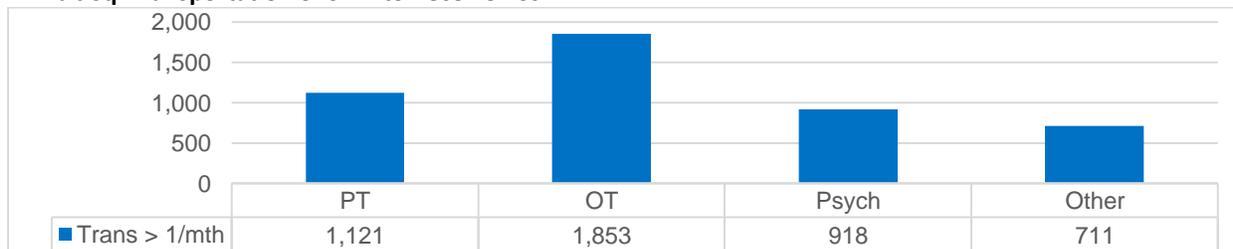


**RS Overall Totals by Type and by Region and Area**

Figures in *Exhibit 6q. Transportation of SwD to Receive RSs* show for students with at least one RS each month. These numbers, which are in addition to regular transportation for SwDs, reflect significant challenges.

- **By Region.** Numbers of transported SwDs: Arecibo (883), Bayamón (1,180), Caguas (952), Humacao (292), Mayagüez (1,274), Ponce (1,129), and San Juan (855).
- **By Therapy.** SwDs transported by therapy type: S/L (2,018), PT (1,121), OT (1,1843), psychological (918), and other (711).

**Exhibit 6q. Transportation of SwD to Receive RSs**

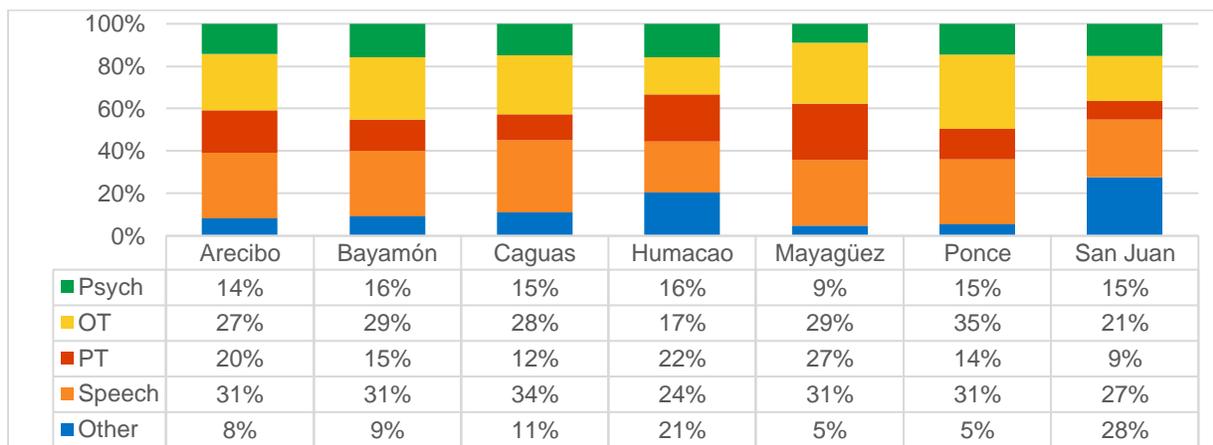


**RS Rates by Type and Region**

*Exhibit 6r. Percent of SwD Transported by RSs Type and Region* figures show for students with at least one RS each month –

- **Psychological** rates ranged by 7 percentage points: Bayamón/Humacao (16%) to Mayagüez (9%);
- **OT** rates ranged by 18 percentage points: Ponce (35%) to Humacao (17%);
- **PT** rates ranged by 18 percentage points: Mayagüez (27%) to San Juan (9%);
- **Speech** rates ranged by 7 percentage points: Caguas (34%) to San Juan (27%); and
- **Other** rates ranged by 13 percentage points: San Juan (28%) to Mayagüez and Ponce (5%).

**Exhibit 6r. Number of SwD Transported by RS Type and Region**



#### 4. Provisional Remedy

If after 30 calendar days from the date, the COMPU completed and parent signed the PEI or service plan (SP) with specified RSs and/or supplementary services (SS) that did not start, the parent may request (with required documents) a provisional remedy (PR). Within 20 calendar days from the request the CSEE has 20 calendar days to respond that the services are at the ORE or a nearby ORE. If the service is not available, parents are given a link and 20 days from the date of the request receipt to select a provider from those available. Parents then have up to 90 days to coordinate a contract with the approved service. If the timeframe is not met the approval is cancelled and the parents must file a new request to initiate another PR.

According to interviewees, if a parent rejects an appropriate service offered because, e.g., it is not local, the PRDE continues to be held accountable for missed service. We were unable to confirm this statement through the Special Education Manual or RLV documents. If accurate, the provision puts an undue burden on PRDE by allowing parents to unreasonably reject an appropriate provider.

#### 5. MiPE

The stipulations' heavy data reliance places an inordinate demand on PRDE's special education computer platform to produce evidence for all associated activities. Given the detail of data reporting shown in PRDE monitoring reports and required by the Monitor for corroboration, MiPE appears to be quite sophisticated. Based on our experience, MiPE fields and complexity are significantly more extensive than those in U.S. systems.

Interviewees shared concerns about the technology demands placed on PRDE personnel at central/region offices and schools who have a specified number of days to upload information into MiPE. Notable concerns include –

- Annual MiPE changes that are not consistently communicated to facilitators and users. Notice occurs through an error message during the upload process, which then requires further reading about the change. It should be mentioned that the changes are reported through public policy that is sent through the official agency mail to all staff working for PRDE, including regional superintendents, academic superintendents, school directors, service center staff, facilitators, teachers. On the other hand, the associate secretary coordinates training and sometimes explanatory videos are recorded, which are uploaded to the PRDE page so that users have direct access to information and support them in the process of change.
- Internet service failures interfere with data input, yet users are penalized for not completing tasks in a timely manner.
- The volume of data entry and training demands for MiPE and RLV associated information interferes with teaching and therapy.

## 6. Monitor Corroboration of PRDE Monitoring Report Data

Last year, 11 stipulations were administratively closed (archived). The RLV monitor has been validating the results through the corroboration process. *Exhibit 6s. Levels of RLV Compliance* and comments are based on PRDE’s Power Point for its Annual Evaluation of Compliance Report 2022-23 (Power Point). This information shows the compliance measure and relevant information.

**Exhibit 6s. RLV Levels of Compliance**

Score	Description of Compliance Measure	Comments
0	No compliance data was presented	Assigned lines for which PRDE has not presented clear, precise data or information corresponding to the report
1	Below minimum acceptable level (less than 50%)	Can be considered a critical level of non-compliance
2	Minimum acceptable level of compliance (50% to 69%).	Compliance is below the stipulated level and requires notable or significant intervention;
3	Satisfactory level of compliance (70 to 89%)	Compliance is below the expected level, but could reach it relatively quickly
4	High compliance level (90% - 100%)	

Interviewees reported that PRDE must achieve a score of 4 for three consecutive years with the Case Monitor’s corroboration for a stipulation to close.

### Data Sampling Types

PRDE representatives informed the Council SST that on September 15, 2022, lawyers filed a motion on the Department’s behalf to close various stipulations based on the duration of compliance: Stipulations 9, 12, 13 and 18 (at least 6 years), Stipulation 16 (5 years) and Stipulation

20 (4 years). Reportedly, PRDE can archive administratively with a compliance level above 3.5 compliance for three years of data.

The document, [Types of Sampling for the Corroboration Plan](#), described the Monitor’s process for reviewing PRDE’s monitoring data. The Plan described corroboration involving simple random sampling, random sampling by strata, and purposeful sampling. The volume of documentation is enormous for PRDE’s production of information for the Monitor’s corroboration in addition to PRDE’s monitoring report and table production requirements. While we lacked time to read the entirety of information, we counted the pages for each document type to illustrate their breadth.

- **PRDE Monitoring Reports.** 2020-21 report (344 pages), 2021-22 report (416 pages), and 2022-23 report (559 pages), for a total of 1,319 pages.
- **PRDE Power Point** showing data tables from the 2022-23 report (83 slides).
- **Stipulation and Related Explanations.** Descriptions for each stipulation, criteria that must be measured, applicable data to review, and data collection closing date (52 pages).
- **Corroboration Explanations.** Data required to corroborate each stipulation (92 pages).
- **Monitor’s 2020-21 Report.** The January 18, 2022 Compliance Report to the Honorable Court (344 pages) is the last report the Council SST received.

### Case Study: Stipulation 49 Information Required for Corroboration

An example of the Monitor’s extensive corroboration process is shown in *Exhibit 6t* below.

#### Exhibit 6t. Corroboration Required for Stipulation 49

**Stipulation 49.** The Program will carry out reevaluations required to determine eligibility and offer educational and RS within the 3-year period established by law, or sooner if determined necessary.

**Criterion 1.** Percentage of students with triannual evaluation before expiration of the process, of total students eligible for triannual reevaluation after the COMPU recommendation.

**Data Required for corroboration:** List in Excel that includes: region; district; municipality; school; name of the students eligible for the triannual reevaluation for the school year to be corroborated; SIE; date of last eligibility determination; date of the Analysis of Existing Information (AIE); people who formed the COMPU to complete the AIE; AEI result; date of referral for triannual evaluation; date the triannual reassessment was completed; time elapsed between the last determination of eligibility and the triannual reevaluation (in days). The list must have indicators/identifiers for students: 1) whose AIE determined that triannual reassessment was not necessary, 2) triannual reassessment was recommended, and 3) triannual reassessment was conducted. Also: Previous Eligibility Determination Form Analysis of Existing Information Form - Minutes of the meeting to carry out the AIE -Referred to triannual reevaluation -Triannual reevaluation

**Analysis to be performed:** 1) Review content of the eligibility determination form, minutes of the COMPU, AIE meeting, referring to the triannual reevaluation to validate they are completed in all its parts. 2) Verify dates and signatures required on the eligibility determination form, minutes of the COMPU, AIE meeting, referring to triannual reevaluation. 3) Validate recommendation of whether to carry out triannual reevaluation in AIE. 4) Validate number of days elapsed between student's last determination of eligibility

and triannual reevaluation. Determine whether committee to carry out the AIE and make triannual reevaluation recommendation is properly constituted per official documents. (There are 3 criteria in total)

**Confirmation of student eligibility.** Adjudication of compliance with various provisions is made taking into consideration the students' eligibility for specific services, as established and reported by the DE. When the identification of these students depends on the service being included in the electronic PEI, we make a mathematical adjustment to account for students who may be eligible, but not included in the figures presented by the DE because they do not have a PEI electronic.

#### Final Corroboration Report for Stipulation 4. Deadlines

PRDE shared an example of the Monitor's corroboration report for Stipulation 4, which addresses evaluations completed within 30 days of registration dates. The report for this single indicator numbered 42 pages. A sample of students from Arecibo, Bayamón, and Caguas were randomly selected. The Monitor found a lower level of compliance than PRDE reported in 2018-19, 2019-20, and 2020-21. Although 2020-21 compliance remained at 4 (high), the Monitor found it unlikely that it would be maintained if the other regions were corroborated. The average of the three school years for the three regions was 3.33 instead of the 4 that PRDE presented. The Monitor emphasized that the reduced compliance score was primarily related to several student files that were not located. Based on located files, compliance in the regions would have been 91.8% (2018-2019), 80.8% (2019-2020), and 88.6% (2020-2021). The Monitor found that PRDE must maintain records of registered students regardless of whether they subsequently are no longer eligible for special education or graduated from the program. Instead, PRDE earned a "0" score, bringing down the overall average. As a result, the Monitor planned to corroborate San Juan sampled records to determine if compliance remains at level 4 or decreased to 3. Depending on the result, the other regions would be corroborated for 2020-2021 and would be considered to be the first of the three years that corroboration requirement.

In our experience, monitors would substitute new student records for ones not located for reasons such as those above and continue the corroboration process. With such a complex and detailed monitoring process, it is unlikely any U.S. school district would be able to meet these high standards.

#### 7. PRDE Personnel and Fiscal Impact

The above described RLV related activities and others too lengthy to mention come at a great cost to PRDE personnel and budget. These are addressed below.

##### PRDE Personnel Requirements

Reportedly, PRDE personnel must compile a minimum of 80 reports each month, more than 1000 reports yearly. In addition, there are monthly administrative hearings with the Commissioner, Monitor, and associated personnel, including lawyers for the department and parents. From these and other meetings questions arise with requests for additional information. Case progress

reports vary from every two weeks to three months, depending on requests from the Monitor and/or interested parties.

### Production Hours and Monitoring Office/Plaintiff Attorney Cost

Based on documents PRDE provided and interviewee feedback,

- **PRDE Professional Services.** The Vélez Case Report showed the number of hours reported to support monitoring report production: 2020-2021 (14,152 hours, or 6.8 work years), 2021-2022 (17,113 hours, or 8.3 work years), 2022-2023 (18,033, or 8.7 work years), and 2023-2024 through February (14,152 or 13 work years). This does not include the many additional hours PRDE personnel spent on RLV activities.
- **Monitor's Office.** For 2022-23 and 2023-24 PRDE paid almost \$1 million for the Monitoring Office officials, \$400,000 and \$560,000, respectively. Records show that the Office's quarterly increased in January 2024 by (\$80,000 from \$100,000).
- **Plaintiff Attorney Fees.** To date, it appears that \$7 million in fees were paid to plaintiff attorneys. This amount would be increased by costs for PRDE internal and contractual attorneys.

### Fines

Reportedly, the Court of First Instance has sanctioned PRDE with fines for noncompliance since 2002. Based on PRDE data, \$11,000 per day was assessed since at least the 2022-23 school year, totaling \$8,041,000 for the two-year period. The fund created with these fees can be used for projects and programs for class members. Examples include the Steering Committee, which offers advocacy services to parents, and the Legal Services Corporation, which offers legal services to Educación Especial (EE) parents free of charge.

PRDE shared two final reports for 2020-21 and 2022-23 for the Comité Timón showing grant amounts and how funds were spent. Comité Timón is a non-profit organization (committee) composed of/or represents family members of SwDs.

- The **2020-21 Final Report** reflected a grant of \$259,178, and 439 COMPU meetings with parents, 92 suits (complaints), 4,209 parent follow-ups, 165 provisional remedy applications support, 55 reconciliation meetings, etc. Other activities were, e.g., family workshops, educational events participation (fairs, conventions, etc.), information dissemination, collaboration and communication with PRDE regarding stipulation compliance, MOUs with universities, NGO, etc. One group of activities in particular caught our attention. This referred to noncompliance situations and/or conflicts that resulted in press coverage, conferences, interviews, reports, denouncements, etc. One interviewee expressed concern about the press's greater focus on fines sanctioned against PRDE compared to excellent examples of instruction. This appears to reflect the latter Comité Timón activity.
- The **2022 Final Report** reflected a grant of \$136,320 for two years. Most funds were for

professional services, although the report stated the committee is a group of volunteers. Activities included 413 new cases, attending COMPUs, helping with PR applications, etc. The same amount was requested for the next trimester, mainly to continue the same activities from the current period of time.

An interviewees' theme concerned how RLV fines diverted funds PRDE should use to invest in improving SwD teaching/learning. The long list of desired activities and support include: additional special education teachers, classroom assistants, and therapists to reduce reliance on outside corporations; increased collaboration/consultation between regular and special education teachers, school-based facilitators in every school to assist with administrative tasks (data collection, PEIs, COMPUs, parent contacts, goals progress reporting, etc.); additional support for transition services; PL for functional behavior assessment training and processes, and all areas affecting special education.

## 7. Implications for Decentralization

Decentralization will not improve RLV results unless its underlying stipulation foundation, data demands, and monitoring process are addressed.

## Recommendation 8. Increase awareness of and improve PRDE's Results Driven Accountability (RDA) federal outcomes and improve PRDE special education due process legal representation.

Use RDA indicators for PRDE to 1) measure/improve dispute resolution effectiveness; and 2) communicate the importance and relationship of SwD achievement results to federal accountability. As part of this process, increase awareness and use of mediation for dispute resolution. In addition, address PRDE's capacity to litigate due process issues, including appeals.

### a. RDA Indicators and Measurements

Using the PRDE website and regular communication channels, have the SEA explain the RDA outcome measures and PRDE results. For relevant indicators, use the measures to post outcomes by LEA and by school, and to show progress. Identify those overlapping with Rosa Lydia Vélez stipulations, e.g., timely evaluations.

### b. State Administrative Complaints

Have the SEA consider hiring a consultant experienced with state administrative complaint administration to review a sample of files to assess outcomes, and interview relevant personnel to understand reasons for untimely reports and low complaint usage.

- Have the SEA disaggregate complaint data by and visible to each LEA. Include in the data fields for complaint issues and their resolution.

- Have LEAs review data to identify trends requiring training and other measures to reduce noncompliance.
- Have the SEA aggregate LEA results to identify any common island training needs and follow up actions.

**c. Mediation**

Have the SEA investigate its mediation process to determine the extent to which it is available for matters unrelated to a DP hearing request and parent awareness of the process. (See *Exhibit 6c. Mediations and Agreements Held Unrelated to Due Process Data* for more information.)

- To the extent mediations are not administered at the region/LEA personnel level, have the SEA initiate that action, ensuring adequate and appropriate staff are available for this purpose. Have trained neutral personnel available to mediate.
- Have the SEA collect and share with LEAs data regarding mediation use, including success.
- Initiate State-Sponsored IEP Facilitation to increase COMPU consensus and reduce need for next step dispute resolution processes. (Cross reference with Recommendation 2a)

**d. Due Process Hearings**

Given the high use of due process (DP) hearing requests to resolve disputes, have the SEA hire a consultant to review DPRE's administration and operations. Primarily, use the above suggestions to increase mediation and IEP facilitation to reduce parents' resort to DP hearing requests. (See *Exhibit 6c. Due Process Data*, *Exhibit 6d. DP Hearing Timeliness*, *Exhibit 6e. DP Hearing Request Issues*, *Exhibit 6f. Percent of DP Hearing Requests*, and *Exhibit 6g. Number of DP Hearings Filed and Rate by Region*.)

- Have the SEA establish separate fields for DP hearing requests to analyze their reasons. Given the many reasons text boxes currently list, with LEAs, school district representatives, and stakeholders identify fields reflecting broader reasons to support analysis and follow up activities, e.g., training, technical assistance, problem-solving larger trends, etc.
- Have the SEA disaggregate DP hearing data by and visible to each LEA. Include data relevant for LEA use.
- Have LEAs review their data to identify LEA trends requiring training and other measures needed to reduce parental need to request hearings and findings against the SEA.
- Have the SEA aggregate LEA results to identify island-wide training needs and follow up actions.

**e. Legal Representation**

Critically review PRDE's current capacity to litigate due process hearings, including appeals to Federal court and the involvement of DOJ for this purpose. To improve PRDE outcomes, ensure PRDE attorneys are well trained and have the capacity to carry out any increased expectations. To the extent possible, coordinate training with DOJ to increase the agency's involvement. As discussed below in Recommendation 9, relating to RLV activities, consider the legal resources and expertise/capacity needed to succeed. Consider consulting with a legal representative of a CGCS member district that has success in this area to share lessons learned and practices.

**f. Implications for Decentralization**

Have each LEA superintendent form a cross-cutting team with data available to identify school-based compliance patterns and provide targeted intervention/support for issues most likely to require dispute resolutions. The team should include both regular and special education, and RS personnel. Personnel with monitoring roles would enable LEA teams to be familiar with school needs and creative but realistic suggestions for meeting them. Consider the following actions to improve dispute resolution for each LEA –

- Sufficient and knowledgeable personnel available to support the problem-solving of matters outside the control of school personnel; timely respond to requests for assistance; provide training to address areas of concern; etc.
- Mechanisms to quickly procure material and human resources to the extent feasible to meet student needs not likely to be (or not) met in a timely manner.
- Personnel to investigate and suggest resolutions to administrative complaints; and to support PRDE's resolution of and participation in DP hearings.

In addition, strengthen SEA/LEA Compliance Teams and ensure they have regular interaction with special education counsel to understand the rules and limitations of eligibility. Ensure the teams have the capacity to support COMPUs and schools.

**Recommendation 9. Initiate conversations with appropriate parties about modifying the RLV agreement to focus on compliance promoting and not interfere with SwDs teaching/learning. In short term, take action to address specific management activities impacting compliance.**

Our description of various RLV stipulations and how they impact special education/related services, although detailed, does not begin to include all requirements associated with this matter. Council SST members with extensive knowledge of and experience with federal/state monitoring, including a long-time veteran of Office for Civil Rights upper management, are unaware of any similar class action case (state or federal) with extensive requirements like RLV.

Based on our review of the voluminous documents/data we received and feedback from interviewees, **we conclude that the current RLV compliance structure is untenable, has terms that neither PRDE nor any US school district could ever meet, and implementation efforts over many years has come at great student cost.** [The Initiative for Decentralization of Education and Autonomy of Regions](#) (IDEAR Report) similarly charged that RLV stipulations and related tasks have exacerbated the conditions and time to comply and provide services to students. The Report called for PRDE to work in a coordinated manner to overcome barriers to streamline the system, fulfill the commitments, and provide services to students.

**a. IDEAR Report Findings Supporting Our Recommendations**

The following IDEAR Report findings support the Council SST recommendations –

- Growth of special education beyond any school system’s capacity.
- Growing influence of therapy, i.e., related services, such that therapists proportionately outnumber special educators and assistants.
- Proportionately more therapists per student than almost all Council SST surveyed districts; the same is not true for special educators and assistants.
- Perception that therapy has more benefit than specially designed instruction (SDI), evidenced by its significantly higher number of RLV stipulated requirements/measurements compared to SDI, even though IDEA requires therapy/RS only if needed to benefit SDI.
- Little attention to the value of SDI, evidenced by its limited training time and material support available, as no RLV stipulations require otherwise.
- Reliance on more costly outside providers and off-site services causing SwDs to leave school and lose instructional time that students/parents must independently make up.
- Reduced or no ability for special educators to collaborate and coordinate with therapists even though their services legally are required to benefit special education.
- Increased need for costly and lengthy transportation for SwDs to attend therapy off-site
- Emphasis on meeting stipulated evaluation completion time frame (shorter than IDEA’s) incentivizes automatic acceptance of contractual therapy recommendations in lieu of time required for close independent review.
- Contractual therapy recommendations typically carried out by contractor employees.
- Professional learning more focused on compliance than SwD teaching/learning and wellbeing.
- Extensive RLV monitoring/corroborations requirements leave little time and resources to administratively support teaching/learning.

- Enormous MiPE input needs take special educator time away from instruction.
- RLV stipulation data analysis/reporting requirements with extraordinary production time and costs.
- Noncompliance sanctions with fines do not support any targeted actions designed to accelerate SwD achievement and improve their wellbeing. Instead, they fund parent advocacy, including negative press releases and social media.

#### b. Symposium

Have PRDE, perhaps with RLV plaintiffs, sponsor a major symposium with speakers who can communicate ways RLV activities have supported educational progress but need to change with a “substantial compliance” focus to better improve the quality of SwD teaching/learning and wellbeing. Present what a future for Puerto Rican SwDs could look like with MTSS implementation, evidence-based core instruction, increasingly intensive interventions, SDI (along with related services that benefit it), and meaningful parent engagement. U.S. Department of Education personnel could be valuable partners and contributors of suggestions for this purpose.

#### c. Use LAUSD Model to Remodel RLV Actions

We recommend that PRDE follow LAUSD’s approach that resulted in its federal Modified Consent Decree (MCD) and hire a consultant likely to have the respect of RLV parties to begin conversations leading to this end.

To illustrate an alternative approach to RLV’s current compliance structure, Chandra Smith’s MCD principal terms are summarized below. The summary has two parts. The first describes the MCD’s planning process and outcomes most relevant to Puerto Rico. (For example, MCD outcomes for racial/ethnic disproportionality are excluded.) The second relates to a framework for PRDE to show its special education program has no systemic problems preventing “substantial compliance” with applicable federal/state special education laws/regulations.

#### d. MCD Outcome Examples

Pertinent MCD provisions are summarized below to prompt consideration of an approach to remodel RLV stipulations.

- **Annual plan.** Describes for each indicator measures showing progress toward meeting outcomes with benchmarks to be achieved by the plan’s conclusion, action steps to achieve them, responsible staff, evidence maintained to show action completion, and approximate completion date.
- **Indicators** are modeled on the federal SPP and include the following. PRDE would identify the goals for the blanks shown below –

- **Statewide assessment participation.** E.g., by \_ 75% SwD participate with no/standard accommodations. Percentage comparable to nondisabled student rate. Each IEP identifies no accommodations, and standard/nonstandard accommodations; and alternate assessment.
- **Performance.** Outcome measure for increased and reduced disparity with students without disabilities.
- **Graduation.** Increase number of grade 12 SwD with diplomas based on data by:  $\geq 5\%$  during the \_SY; and  $\geq 5\%$  for next \_\_ school years (SY).
- **Suspensions.** Reduce long-term SwD suspension rates: by \_\_, reduce percent SwD suspended \_ or more cumulative days to \_\_% from \_% of all SwD.
- **Educational Environment.** For 6–21-year-old SwD by \_\_, at least \_\_% placed in general education from 100% - 40% of time and not more than \_\_% in general education less than 40% of the time.
- **Transition Planning.** By \_\_, \_\_% of all SwDs shall have an Individual Transition Plan per IDEA.
- **Timely Evaluation Completion.** 90% completed w/in 50 days; 95% of completed w/in 65 days; 98% completed w/in 80 days
- **Due Process Hearing Completion.** Percent completed in specified number days with rates showing improved timeliness.
- **Dispute Resolution.** By \_\_ will increase reliance on informal dispute resolution of disputes by increasing ability to timely resolve \_\_% of them through informal dispute resolution process within \_\_ working days.

**The Chief Administrator of Special Education** has authority to direct district staff as necessary to correct any noncompliance with special education laws and regulations.

#### e. Substantial Compliance

The Independent Monitor (IM) judges whether the special education program has no systemic problems preventing substantial compliance with applicable federal/state special education laws/regulations. This is demonstrated by –

- Effective monitoring of compliance and capacity to correct noncompliance.
- Demonstrated initiative and engaged leadership.
- Commitment of necessary resources to build/maintain system capacity beyond the MCD conclusion.

### Five general framework elements

- Data system capable of monitoring key compliance and performance indicators at the district, region, and school levels.
- Process for monitoring special education compliance and performance at the region and school levels.
- Process for receiving and resolving compliance complaints.
- Process for resolving IEP disputes.
- Management and administrative structure with authority to monitor and enforce compliance.

Additionally, District is required to submit any reports, documents and/or findings from the past three years from federal, state or court agencies (e.g., SPP, OCR Rulings) showing findings of noncompliance.

### f. Take short term action to address impediments to compliance.

In addition to the above, take short term actions to address compliance impediments noted in our report. These include –

- **Spread out reevaluations over the school year.** Based on our experience, decades ago, U.S. school districts began to change their Spring annual review schedule and decided to distribute them throughout the school year. This model avoids holding a large number of meetings over a short period of time, overwhelming school personnel. Consider the U.S. model for school districts' initial implementation with phased in annual reviews held before due dates. To accommodate IEPs covering two school years, districts have worked with their computer system vendors to accommodate this practice. Such PEIs would have two sets of information: 1) for remaining months in current school year; and 2) for appropriate number of months in the next school year. Council member districts using this model would be available for assistance.
- **Address transportation problems**, such as expediting implementation of new routes, expecting timely uploading of transportation data, exploring development of one transportation portal, working with higher authorities for municipality representatives to give timely notice about SwDs unable to be transported, and having a process for structured communication between all necessary parties.
- Investigate transportation disparities by various indicators, e.g., region, reason for transportation, etc.
- Review perceived PRDE continued responsibility for missed RSs when parents reject offered appropriate service because, e.g., it is not local. If accurate, include this issue for potential RLV stipulation modification.

- Timely communicate to LEA /school facilitators and users MiPE changes.

## VII. DECENTRALIZATION IMPLICATIONS FOR SPECIAL EDUCATION

To understand PRDE's decentralization goals and movement, we relied on department documents, interviewee feedback, and 2023 findings and recommendations made by the Initiative for Decentralization of Education and Autonomy of Regions (IDEAR Report). One significant and relevant IDEAR Report finding was that the department's centralized structure has limited special education efficiency, effectiveness, and relevance.

During the 2023-24 school year, three regions were identified for pilots: Mountain Area (2 municipalities), Western/Urban Area (3 municipalities), and South Zone (3 municipalities). The three regions reflected two urban areas (one with average and the other with low academic performance), and one rural area. The numbers selected enabled pilots to operate at a manageable scale that made relatively quick learning possible and to anticipate as much as possible full island deployment potential circumstances. The three pilot areas each received from associated OREs three facilitators and three process administrators. Twelve piloted schools with 19 auxiliary assistants were distributed as follows: region 1 had 3 schools (4 assistants); region 2 had 5 schools (7 assistants); and region 3 had 4 schools (8 assistants).

Interviewees shared their perception that decentralization would be helpful overall and improve RLV compliance. Staff across the district generally were aware and hopeful changes would empower school staff to better support teaching/learning processes and compliance. Community representatives (including parents) welcomed proposed school-based services, such as registration, that would eliminate travel time to regional offices. District representatives reported meetings with pilot school directors who then were expected to share information with staff. Schools received a perception questionnaire survey to give feedback to CSEEs about how they visualized school-based services.

The following were noteworthy interviewee comments pertaining to decentralization –

- **Clarity of Special Education Process.** There was no universal understanding of special education processes that would shift to schools or remain at regional offices. Although school-based registration appeared to be clear, we sought further clarification about evaluation and eligibility decision locations. With this information it appears that evaluations will remain at the regional level and eventually move to schools, and eligibility determinations will be school based.
- **Communication.** The decentralization pilot process seemed to be happening with little to no communication or input from school staff expected to implement school-based processes. There is concern that the pilot process was too fractured to capture all upcoming challenges needing resolution prior to full implementation. This has produced fear that workloads will increase, and consequences will impact associated activities for SwDs and compliance. Some communication issues appeared related to teachers' ability to attend meetings held during

the school day.

- **Training.** The LEAs<sup>56</sup>, school directors, and their staff require more training to manage special education and their funds.
- **LEA Advisory Committee (CAL).** After four meetings for some, additional information was desired about the decentralization process, CAL member roles, resource availability, and preparation to execute required activities. There was a desire to be more involved, better trained, and feel CAL suggestions were heard and being considered. Overall, however, there was support for decentralization to occur and be successful.

### Decentralization Issues

Below are various issues that will need to be addressed fully as part of the decentralization process.

- **Special Education Department Siloed Operation.** The Council SST's 35 special education reviews have all found special education departments operate to some extent apart from other departments, especially from those overseeing general education instruction. Given that most SwDs receive instruction within regular classes, it is essential that central office personnel closely collaborate and send unified messaging to school directors, and both general and special educators. See *Recommendation 6a.SEA Interdepartmental Collaboration* that addresses this issue.
- **Increased Proportion of Special Education Enrollment.** The significantly increased proportion of Puerto Rico's SwDs over the last 10 years, which has grown from 2012 (19%) to 2022 (31%), is a challenge for decentralization. This high percentage [currently 37%] results in greater pressure on the system, demanding resources, and making it difficult to meet all SwD needs on time.
- **Centralized Guidance** does not provide broad requirements that allow for LEA and schools to adapt to meet their unique demographics and needs.
- **CSEE Centralized Evaluation/Eligibility Determinations.** The CSEE location for these essential processes has removed school personnel from these critical decisions and has required parents to travel longer distances to participate. (All school districts with which we have experience localize registration, evaluation, and eligibility at each school. Some variations occur for students enrolled in private/parochial schools, for very specialized assessments, or eligibility decisions involved in dispute resolution that require neutral locations.)
- **Related Services.** The numerous problems associated with RS includes high therapy rates, low student to provider ratios, off-site services, service delivery delays, more costly private

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<sup>56</sup> For this section, the term "LEA" is used to refer to regions.

providers, limited or no collaboration between special educators and RS providers, transportation issues, noncompliance, and RLV fines.

- **School-based Hires.** Regional personnel control the selection and hiring process for full time school-based personnel.
- **COMPU Team.** The Special Education Manual at Section 6 describes the team with IDEA requirements, which includes a person who can interpret the implications of evaluation results. Unless that person has expertise in each relevant evaluation area, they are likely to agree with recommendations without any critical review. For private evaluations, this circumstance may have the effect of inflating private related services authorization and billing. Under these circumstances, decentralization could succeed in bringing the evaluation/eligibility process to schools but not improve the quality of their outcomes. Furthermore, with any experienced regional personnel loss, eligibility rates and therapy service types and amounts could increase.
- **Procurement of Materials and Services.** According to the IDEAR Report, PRDE's current procurement policy adversely impacts the purchase of services and materials. Response times are excessive, even for school budget-approved areas. Internal/external controls require some transactions to receive up to 18 approval steps, including four from trustees. Interviewee concerns included examples about purchases received that were not requested in lieu of those students needed. Additional examples were –
  - **Time Consuming Processes** that require school personnel to send approval requests such as for specialized equipment to CSEE personnel, then to the regional director, and then to the central office to various individuals. Too often the process is delayed by remaining on someone's desk where it may or may not be approved. One anecdote referred to the cancellation of one school's transactions of \$300,000 due to untimely approvals and their funds were not replenished. On a positive note, one ORE received approval to hire part-time purchasing personnel. Ten were hired to supplement the current four full-time staff.
  - **Auction Process.** PRDE employs an effective process for systemic purchases, i.e., auctions, to authorize contracts for groups of providers. But for requisitions outside of auctioned contracts, the purchasing agent must receive three quotes for each item type. Examples of delayed requests included those for special chairs, changing tables, sensory toys; appropriate books, evaluation testing protocol, etc. One anecdote referred to a student who waited two years for a wheelchair, at which point the student had outgrown the originally requested chair.

Delayed procurements have noncompliance consequences. When PEI-required equipment, assistive technology, or other products are not received in a timely manner parents have good cause to request a DP hearing, file a complaint, or request a provisional remedy.

- **Budget Management.** The central office approval process has restricted ORE and school capacity to manage their budget and resources to address school community needs. The IDEAR Report recommended that through decentralization regions and schools should be more involved in defining/managing their budgets. Interviewee concerns included the following –
  - Decentralization processes will not cure budgets that are inadequately funded, continuing to leave small amounts for discretionary spending.
  - Projections for the upcoming school year are insufficient to cover the volume of necessary transactions. Anecdotally, during the school year decisions are made to reduce the amount of budgeted funds.

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**Recommendation 10. Expand described decentralization activities to address circumstances interfering with instruction/other services to accelerate SwDs achievement and wellbeing.**

The decentralization movement offers an opportunity for bold and courageous leadership by the SEA, LEA superintendents, Advisory Councils (CAL), school boards, and school directors. Only the force of this movement (reinforced by positive community forces) will be sufficiently strong to challenge and change Puerto Rico’s pervasive current mindset that has promoted compliance minutiae and related service dominance, which RLV stipulations have promoted and reinforced. These conditions, combined with other RLV stipulation requirements, have presented significant and unique pressures previously addressed and summarized in Recommendation 9.

Decentralization plans that address SEA, LEA, and school responsibilities alone will not address the above circumstances that interfere with SwD achievement and success. Along with their new roles the SEA, LEAs, and schools must attend to the content of work and change course. Otherwise, decentralization activities will reflect form over substance.

We recommend action planning for changes described below to improve the administration and operation of special education and SwD teaching/learning and wellbeing. For each action area of work consider: 1) SEA written guidance required with LEA/school feedback; 2) personnel resources for LEA implementation, school support/monitoring, and support for school implementation; and 3) professional learning needed to carry out new guidance, in addition to specified training referenced below.

**a. Recommendations for relevant SwD decentralization work**

Some of these areas were addressed in prior recommendations but are repeated here for full consideration.

- **Parent Registration Request Review.** Amend SEA policy/ guidance as necessary to authorize school personnel to review parent registration requests consistent with IDEA rules and SAE-03b's [Prior Notification for Evaluation and Therapies](#) form contents. Explain the process for school personnel review of parent requests and their acceptance or denial, including notice of procedural safeguards. Also, provide guidance for reviewing parent/school information to determine if they support a suspicion of special education need.
- **Protocol and Quality Review.** Ensure protocols are in place to guide evaluations/reports (by type) and decisions for special education eligibility, related service, and COMPU decisions for specially designed instruction and related services (e.g., minutes, duration, intensity, location). Have professional learning include private evaluation and related services personnel (modifying contractual provisions as needed).
- **Sufficient Facilitator Support.** Develop a formula for calculating region facilitator allocation to schools based on school and SwD characteristics and needs. Also, consider needs to provide technical assistance, teacher support, training, and monitoring.
- **Implementation of School-based Evaluations and Related Services.** Expedite to the extent feasible school-based evaluations and services (in addition to planned registration and eligibility decisions.) Have a stakeholder group supporting these measures contribute to strategies designed to employ an adequate number of personnel needed. As part of this process, share RS and transportation costs that could be recouped as services are brought to schools and used to fund recruitment incentives, e.g., salary increases. (CGCS member districts universally use this model and could be a source of technical assistance.)
- **COMPU Team Expertise.** Have a group of persons knowledgeable about current evaluation and eligibility decision-making gather information to suggest ways to ensure COMPU members have or with training can have the knowledge they need to critically and independently review evaluations and their service recommendations.
- **Human Resources.** Although the IDEAR's Implementation Team #6 addressed Human Resources there is no reference to the need for school directors to select full time school staff. Note: the Chicago Public Schools successfully transitioned to this process about 30 years ago. Include in decentralization planning a process for school directors to interview and select personnel based on approved open/budgeted positions and a qualified applicant pool screened by HR. In addition, have a process that expedites the actual hiring process based on the school director's selection.
- **Procurement.** Under specified circumstances authorize school directors to independently procure materials and services. For example, the Chicago Public Schools (CPS) for decades has had a procurement process authorizing school principals (with parameters) to sign

contracts for amounts up to about \$10,000. One such parameter requires vendors to be approved and included in what PRDE calls a procurement catalog. This process is guided by state law and CPS school board rules. (See [CPS Procurement Manual](#) for more information.) PRDE’s use of such a model would help to expedite receipt of special education materials and services.

- **Budget Management.** Although plans for LEA and schools to manage budgets/resources are positive, they are unlikely to have much benefit if fund allocation is insufficient and/or decreased during the school year. As above, adequate funding could be supported by savings from reduced reliance on contractual personnel, transportation to off-site service, costly production of RLV required reports, etc.
- **Audit.** To inform the special education audit process, information from two large CGCS member districts may be useful.
  - The School District of Philadelphia’s [Guide to School Budgets](#) (2023-24) describes processes for school-based budget development.
  - CPS’s [Appendix B. School Funding Formulas](#), which pertains to “diverse learners,” i.e., SwDs, describes numerous student- and school-based circumstances relevant to each school’s budget development. For example, a process allows schools to “reject” the budget and present to central office personnel documentation to support their positions.

**b. Matrix example showing CGCS activities by SEA, LEA, and schools**

The following MTSS matrix example charts by component actions by SEA, LEAs, and schools. This process can apply to other recommended action areas and be developed as a group activity.

	SEA	LEA	School
<b>MTSS</b>			
<b>Leadership Team</b>	SEA leadership team	LEA leadership team school	Leadership team
<b>Framework</b>	Develop w/LEA-school input/feedback	Localizes within SEA guidance	Localizes for school within guidance
<b>Action Plan Template</b>	Draft w/LEA-school input; for LEA/school use	Adapts template within SEA guidelines	Adapts template within guidelines
<b>Action Planning</b>	Plan for SEA	Plan for LEA	Plan for school
<b>Written Expectations</b>	Establish expectations for MTSS core areas	Localizes expectations within guidance	Localizes expectations within guidance
<b>Catalog</b>	Sponsored evidence-based core/increasingly intensive materials	With schools select from catalog LEA options to facilitate training	Selects from LEA options

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	SEA	LEA	School
<b>Human/Material Resource Gaps</b>	Drafts template for analysis; identifies SEA resource gaps for budget development	Completes resource gap analysis for LEA; aggregates school gaps	Complete human /material resource gap analysis and shares with LEA
<b>Allocation of Funds</b>	Based on LEA resource gap analysis & available funding; trains on use of braided funding	Allocates funding for LEA and equitably to schools based on gap analyses; considers braided funding	Plans budget based on allocated funds; considers braided funding
<b>Professional Learning and Information Sharing</b>	Based on expectations develops PL for LEA and community information; supports LEA training	Identifies PL needs based on SEA expectations; shares with SEA; gives PL to LEA staff, and schools; shares info w/community	Identifies PL needs per SEA/LEA expectations; communicates to LEA; coordinates school PL; shares info w/parents, etc.
<b>Data Collection/Analysis</b>	Further develops data capability based on MTSS requirements; trains LEAs; support school training	For LEA and direction to schools	Coordinates training for appropriate staff
<b>Monitoring</b>	Drafts school walkthrough template (with LEA-school feedback); conducts other monitoring as necessary; highlights exemplary schools	Conducts school walkthroughs with cross-cutting team; gives school feedback; identifies exemplary schools and practices; shares with SEA	Conducts walkthroughs; addresses LEA findings; informs LEA about actions taken; shares with LEA exemplary school practices
<b>Website</b>	Develops MTSS webpage; continuously updates; highlights exemplary schools and practices	Introduce to LEA staff & schools	Introduce to school staff;
<b>Feedback Loops</b>	Establishes feedback loop process for/from LEA, schools, and community	Continuous feedback from schools/community and to SEA	Continuous feedback from school/community to LEA

**APPENDICES**

APPENDIX A. PERCENT SWD OF TOTAL ENROLLMENT & SWD TO STAFF RATIO IN ASCENDING ORDER

The table below shows the average IEP rate and student to personnel ratios for each of the surveyed U.S. school districts and PRDE. Puerto Rico’s IEP rate and ratios are highlighted in yellow and reflect PRDE’s ranking. For student to personnel ratios, the smaller ratios have fewer average students to one personnel.

Rank	% IEPs	Special Educators	Paraeducators	Speech/Lang Pathologists	Psychologists	Social Workers	Nurses	Occupational Therapists	Physical Therapists
1	8%	7	4.3	26	36	26	58	64	128
2	8%	7	5.26	29	55	40	60	75	172
3	9%	7.6	6.3	37	64	56	62	102	173
4	9%	8.6	7	44	77.7	61	64	103	219
5	9%	9	7	44	85.5	64	67	112	241
6	9%	9	7	47	79	67	68	140	283
7	10%	9.1	7	50	90	69	73.5	141	293
8	10%	9.5	7	58	94	73	75	142	349
9	10%	9.8	7.6	59	100	73	82	147	350
10	10%	9.8	8	59	100	75	83	154	354
11	10.3%	10	8	60	102	78	85	154	367
12	10.4%	10	8	63	104	82	89	163	384
13	11%	10	8.3	65	110	86	89	171	449
a	11%	10.3	8.5	68	110	88	89	172	462
15	11%	10.9	8.6	71	110	89	93	174	488
16	11%	11	9.4	71	111	95	93	180	492
17	11.2%	11	9.7	73	111	96	94	181	497
18	11.2%	11	9.7	73	112	105	95	186	498
19	11.3%	11	10	74	113	110	96	187	523
20	11.4%	11.4	10	74	115	115	98	189	526
21	12%	11.7	10	76	117	116	98.6	199	538
22	12%	12	11	77	121	124	100	205	556
23	12%	12	11	78	123	126	104	210	596
24	12%	12	11.1	79	123	127	110	211	599
25	12%	12	12	80	124	134	111	216	615
26	12%	12	12	80	124.7	135	113	219	620
27	12%	12	12.6	80	125	140	114	225	639
28	12.3%	12.3	12.8	81	127	142	115	231	649
29	12.69%	12.5	12.9	83	128	142	119	240	659
30	12.5%	13	12.9	84	129	153	119	242	663
31	12.7%	13	13	85	130	158	120	256	676
32	13%	13	13	89.1	134	160	121	276	680
33	13%	13	13	92	138	165	124	265	703
34	13.1%	13	13	93	140	170	126	285	724
35	13.7%	13	13	94	142	188	127	300	737
36	13.9%	13.4	13	95	144	197	127	309	761
37	14%	13.7	13	95	150	221	129	325	762
38	14%	13.8	13	95.4	151	249	133	326	772
39	14%	14	13	96	154	284	142	332	819
40	14%	14	13	96.5	155	300	142	332	823
41	14%	14	13.5	98	155	300	144	344	864
42	14%	14	14	100	159	303	148	366	869
43	14%	14	14	102.6	166	312	153	367	873
44	14%	14	14	103	169	334	155	374	875
45	14%	14	15	103.6	171.5	384	162	384	885

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Rank	% IEPs	Special Educators	Paraeducators	Speech/Lang Pathologists	Psychologists	Social Workers	Nurses	Occupational Therapists	Physical Therapists
46	14%	14.9	15	104	178	389	163	388	900
47	14.1%	15	15	105	178	487	165	408	903
48	14.1%	15	15	105	179	495	175	413	953
49	14.6%	15	15.6	106	195	525	178	417	991
50	14.7%	15	16	108	198	557.4	184	424	1011
51	15%	15.2	16	111	199	652	184	431	1079
52	15%	15.7	16	111	208	673	186	450	1035
53	15%	16.0	16.4	112	210	705	195	470	1100
54	15.3%	16.3	16.6	112	213		199	473	1100
55	15.4%	16.3	16.6	112	213.7		206	474	1105
56	15.5%	17	17	114	214.4		217	477	1134
57	16%	17	17	115	218		230	494	1222
58	16%	17.0	17.1	116	219		220	498	1262
59	16%	17.2	17.9	117	223		241	518	1270
60	16.2%	17.1	18	121	225		245	525	1309
61	17%	17.5	18	127	232		248	547	1326
62	17.4%	18	18.4	128.3	233		266	550	1491
63	17.7%	18	19	130	240		386	577	1488
64	18%	18.4	19	133	243		398	601	1532
65	18%	19	19.1	135	263		700	616	1553
66	18%	19	20	136	265		834	644	1630
67	18%	19	20	137	287			693	1650
68	18.1%	19	20	139	295			702	1685
69	19%	19.5	20.5	140	300			713	1690
70	19%	20	21	144	319			772	1740
71	19.3%	20.3	21	158	337			810	1786
72	19.4%	20.6	22	172	376			872.8	1849
73	20%	21	22	192	396			1029	2023
74	20%	21	24	218				1125	2187
75	20%	21	25	263				1170	2574
76	20.4%	22	26	265				1479	2574
77	20.5%	22.6	26	314				1513	2701
78	20.9%	23	26	341				1685	2773
79	21%	23.5	27	596					2941
80	21%	24	31						
81	21%	24	33						
82	37%	37	56						
<b>Avg.</b>	<b>14.1%</b>	<b>14.1</b>	<b>14.6</b>	<b>118</b>	<b>174</b>	<b>251</b>	<b>170</b>	<b>397</b>	<b>1,059</b>

## APPENDIX B. ROSA LYDIA VÉLEZ STIPULATIONS

Based on the Puerto Rico Department of Education's 2022-23 Annual Compliance Report for the Rosa Lydia Vélez vs DEPR case, 77 stipulations were grouped in four groups and reported at pages 11-15.

### 18 Stipulations (23% Weight) Score of 3.17

#### Service Terms

4. Evaluation within 30 days of registration.
5. Draft PEI within 60 days of registration of eligible students
6. COMPU meeting to prepare PEI (offer of placement/RS) within 30 calendar days following eligibility and within 60 days of registration.

#### Registration Process & Eligibility Determination

24. Continuous, efficient, simple, and accessible registration procedure
25. Monitor impact of registration change from district to regional centers
26. Same as 25 for Preschool.

#### Eligibility Determination Processes

27. Refer/evaluate completely/appropriately within 30 days from registration. Procedures described in detail. (no description for DD)

#### Monitoring System Initial Evaluations

28. Centralized data system to identify students in public, private, and preschools who are awaiting initial evaluations, period waiting, reasons for delay

#### PEI Preparation Processes

29. DE Process for PEA students and non-PEA students
32. Upon eligibility, COMPU meets to prepare/sign PEI, which includes offer of placement/RS within 30 days of eligibility and no more than 60 days from registration
33. System for preparing IEPs so completed within 60 calendar days from registration

#### Evaluation: Provisional Remedy

30. If initial eval not timely, parent may request provisional relief,

#### Eligibility Determination Participants

31. Eligibility made by group of qualified professionals and parents

#### Transportation for Initial Evaluation

59. When transportation interferes with evaluation service for eligibility, will take measures to ensure evaluation is timely

#### Assistive Technology

80. AT used to help improve, maintain, increase functional ability, etc.
81. Will not consider cost to deny or provide services/assistive technology if required.
82. All acquisition procedures (purchased, rental, etc.) managed quickly so timely provided.
83. Technological assistance may include, but not limited to, functional evaluation, training, etc.
84. AT expressed in IEP regardless of whether available or not.

### 4 Stipulations (5%) Score of 2.25

#### Transportation Scholarships

61. Pay transportation scholarships within 50 days from close of each school month
62. ED submit monthly reports showing transportation scholarship payment processing
63. Pay transit scholarship for companion if necessary

#### Attendance Technological

79. Will provide technological assistance equipment/services needed for an appropriate education.

82. Prompt delivery of technological assistance equipment

**25 Stipulations (33) Score of 2.87**

**Evaluation Disclosure**

- 10. Directory of child find will be distributed to all PR schools
- 16. At beginning of each semester and before classes begin, school will expand orientation to general community about sped services offered
- 18. Principal, sped teachers or other principal designee will discuss with academic community at first school semester meeting rights of parents and sped services offered.

**Location**

- 38. During first monitoring stage, ED must evaluate locations available and provide alternatives to remedy deficiencies
- 39. if placement options are not sufficient, ED will present plan to correct them within defined timeframes

**Compensatory Services**

- 44. If RS not available during regular school year, will provide as compensatory service during summer

**Transportation**

- 48. When transportation problem interferes with RS, ensure services continue without interruption
- 49. Timely Reevaluations
- 50. With untimely reevaluation, student has right to request reevaluation through provisional remedy
- 59. Provide transportation when problems interfere with evaluation service

**School Transportation**

- 54. Provide **transportation** as required – and for therapies when outside school campus
- 55. Transportation provided inside/outside school campus/buses with ramps, etc.
- 56. Transportation defined (by law)
- 57. Transportation will meet safety criteria, with much more detail
- 58. Transportation will not be limited to traditional contracted public carriers
- 65. Procedures for transportation services through porters to eligible students promptly upon request for service
- 66. ED obligated to provide porter transportation during IEP requirement
- 67. ED widely disseminate notification/auction of transportation routes for adequate service through SY

**Architectural Barriers**

- 69. Ensure mobility/access physical mobility needs when preparing IEP
- 70. Schools free of architectural barriers than have e programs to meet student needs
- 71. If at/placed at school with barriers, ED ensure programs/services will be made accessible .....
- 72. ED in consultation with auxiliary secretariat of comprehensive ed services for people with disabilities

**Complaints**

- 78. ED will faithfully/diligently comply with administrative judge orders and agreements through complaints or mediation

**Post Secondary Transition**

- 85. Transition activities carried out as required.
- 86. ED will follow up on other agency responsibilities when agreements are not met.
- 87. ED will investigate/study transition alternatives with other agencies for students who due to their condition are not directed toward world of work

**18 Stipulations (23%) Score of 3.18**

**Scope of the Agreement**

- 1. Public/private will be offered all related, complementary, and supplementary educational services

**Private Schools**

- 2. Students placed in private schools by DE receive FAPE

**Disclosure**

- 9. Child Find. Details scope of outreach to agencies, etc.

12. November advertisements ... 7 criteria (Archived)

13. March: 2 advertisements in 2 newspapers, etc.

17. Coordinate participation in national, health, education, and conventions for sped. (Archived)

19. Video will show services offered and be presented on different television channels, etc.

21. Contents of above will be discuss/agreed upon with class representatives before implemented ..

**Administration**

23. Seek from central government fiscal resources to maintain and if needed increase sped funding. Notify class reps of any decrease who may ask Court to intervene

**Related Services Monitoring**

45. Monitor students not receiving RS, reasons, and corrective measures

46. ED evaluate resource bank for RS to remedy any deficiencies, including quality, continuity, frequency, location, personnel qualifications, and supervision

47. Coordinate efforts with universities, professional health associations so schools used as practice centers

**Triannual Process Monitoring**

51. Data system to determine if students without timely evaluation continue to be eligible

**Filing Monthly Reports**

74. Monthly monitoring reports of complaints, provisional remedies, payment to judges/mediators, compliance with orders, etc.

**Complaints**

73. Have operational procedures for complaints through Secretariat Unit

75. The program may review administrivia grievance procedure ...

76. ED will compile, reproduce, distribute sped hearings decisions

**12 Stipulations (16%) Score of 3.00**

**Disclosure**

11. October distribution of leaflet with sped information to (various groups)

14. 14. April. Posters distributed at identified locations, and process for new, replacement posters so continuously available

15. Parental rights manual similar to what Legal Services Corp prepares. Include telephone directory of specific offices, etc.

20. Principals, SW, other school officials will have loose sheets available about EE program

**PEI Review**

34. Instruct staff to review IEPs at least 5 days before end of SY to ensure current by beginning of next school year

35. Preparation/review of IEP compliant with law

**Location**

36. Make available placements for eligible students based on needs, etc.

37. When need to determine appropriate location, other agencies will participate based on interagency agreements

**Related Services**

40. Will offer directly/contract all RS to which eligible students entitled, including provisional relief

41. Once IEP is completed, RS will promptly begin. If not, available students entitled to interim relief

42. In no case will lack of review/disapproval of IEP prevent continuation of RS during resolution of dispute

43. If evaluation shows recommendations different from previous IEP and no controversy, IEP may be partially approved to provide RS and minutes

### APPENDIX C. DATA AND DOCUMENTS REVIEWED

In addition to sources identified throughout the report, the Council SST reviewed the following data and documents requested.

#### Initial Data Request:

- A. All students by grade. (Same by region)
  - B. **All students with IEPs by age groups** 3-5, 6-22, over 18 years. (Same by region)
  - C. All students with 504 plans by grade. (Same by region)
  - D. **Number of students by each disability area.** (Same by region and any school not in a region)
  - E. **Number of students by** specific learning disability (SLD), autism, speech/language impairment (SLI), other health impairment (OHI), intellectual disability (ID), emotional disability (ED), and others by Grade. (Same by region)
  - F. **Initial Evaluations.** For 2022-23, number of students with a completed IDEA evaluation. Of those completed, a number found eligible for an IEP by disability area. Number of evaluations still pending. (Same by region).
1. **Graduation rate** for all students and for students with IEPs for 2021-22 and 2022-23 (same by region)
  2. **Drop-out rate** for all students and for students with IEPs for 2021-22 and 2022-23 (same by region)
  3. **Unexcused absences.** Total number of 2022-23 students with unexcused absences by day ranges, e.g., 0-10, 11-20, 21-30, etc. For students without IEPs and with IEPs. (same by region)
  4. **Out-of-school suspensions (OSS)** - For students without and with IEPs for SY2022-23 (same by region)
    - a. Number of OSSs more than 10 cumulative school days
    - b. Number of OSS for 11-20 days, 21-30 days, etc. by 10 days until all students included
    - c. Number of OSS more than 10 cumulative school days by grade level by grade
  5. **Performance.** For 2021-22 and 2022-23 if available ...
    - a. For all students without and with IEPs, the percentage meeting/exceeding proficient (grade level) standards in reading and in math on statewide assessments. (same by region)
    - b. Total number of students for each year in grades participating in statewide assessments.
    - c. Total number of students for each year taking alternate assessments.
    - d. If the number in “c” is more than 1% of “b” provide a copy of the explanation submitted for this rate (or otherwise explain the >1% rate).
  6. **Educational settings (6-21 years of age)**
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- a. Number of students with IEPs in general ed classroom 80% or more of the time, between 40-79% of the time, less than 40% of the time, in special schools (in-district and out-of-district), and in residential facilities. (same here and below by region)
- b. For students 6 -18 years of age
- c. For students older than 18 years
- d. By grade and by primary disability area (SLD, S/L, OHI, autism, ED, ID, DD, and other)

**7. Students 3-5 Years of Age.** Number attending regular EC program at least 10 hrs/week & receive majority of services 1) in another location ... 2) and in the EC program; attending regular EC less than 10 hrs/week & receive majority of services 3) in another location ... and 4) in the EC program; Numbers educated in 5) separate class; 6) separate school; 7) residential facility; 8) at home; and 9) a service provider location. (This is the same data that is reported to the U.S. Department of Education). Also, by region.

**8. Staffing.** Number of FTE staff (including contractual) in the following areas. For each, include in the FTE number all vacant positions; in another column identify total vacant positions.

	Total FTE (including vacancies & contractual)	Total FTE vacancies	Total FTE contractual
Special ed teacher			
Assistant			
Etc.			

- a. Special education teachers
- b. Paraprofessionals for students with IEPs (describe any number allocated as part of a formula; and number IEP-required). If there are various types of paraprofessionals, e.g., teacher assistants, give the total number.
- c. Psychologists
- d. Educational diagnosticians (if any)
- e. Speech/language pathologists (including assistants)
- f. Social Workers (including those housed in departments outside of special education)
- g. Nurses (including those housed in any department outside of special education)
- h. Occupational Therapists (including assistants)
- i. Physical Therapists (including assistants)

**9. Fiscal**

- a. Total SAISD budget for all students for 2022-23 by federal and commonwealth source
- b. Total budget for special education for 2022-23 by federal and commonwealth source

**Subsequent Data Request**

**1. RLV Related**

- Average amount of time and number of FTE people needed to produce reports. Can divide by type of report or any other way that makes sense.)
- For 2022-23 and 2023 to date, the amount of money PRDE has had to pay for RLV fines.
- For 2022-23 and 2023 to date, any document showing how funds from fines have been spent.

**2. Related Services.**

- **For each type of IEP related services**, number of students by a) individual and b) small group. Please sort for each region by grade level (elementary, middle, and high) and total for each grade level.
  - **Cost.** For each type of related service area, total cost for IEP services and for provisional remedies for 2022-23 and 2022-23 to date. Same for PRDE personnel and for contractual personnel.
3. **Regional Centers and Special Education Service Centers.** By region and total, number of special education personnel by type, e.g., special education facilitator.
  4. **Cost.** Private therapist eval and service payments for 2022-23 and so far, 2023-24
  5. **Therapy Progress Monitoring.** Any data that would show progress students make for each therapy area for 2022-23 and/or 2023-24 so far.
  6. **Registrations.** Number of registrations by region and total PRDE by month for 2022-23 and 2023-24 to date.
  7. **Parentally placed students with IEPs.** For 2022-23 and 2023-24 to date, number of placements for which PRDE must pay (for all and by region).
  8. **Due Process Complaints.** For 2022-23 and 2023-24 to date (for PRDE and by region), number of requests, number complaints resolved, number going to hearing, number of hearing decisions in favor/mostly in favor of parents.

### Initial Document Request

1. **Organizational Charts**
  - a. **For central office.** Include any department that provides support to schools for teaching/learning, budget, transportation, technology, etc.
  - b. **Special Education.** Provide a brief sentence describing each position.
  - c. **Regional offices.** Highlight all special education positions. Describe the relationship between the special education department to regional superintendents.
2. Latest report of **Compliance with the Stipulations of the Rosa Lydia Vélez** class action lawsuit.
3. Last two monitor reports for **Rosa Lydia Vélez**.
4. Latest report of **State Performance Plan** indicators
5. Based on the **U.S. Department of Education’s June 23, 2022, letter to the PR Department of Education with a finding of “Needs Assistance,”** provide a copy of the information the department submitted for its 2022 Part B Results-Driven Accountability Matrix, and any explanation of the matrix.
6. **Improvement planning.** Copies or access to any districtwide improvement plans and templates for school-based improvement plans that pertain to all students, including those with IEPs.
1. **Charters and Choice.** Provide background information about the department’s charter and choice schools, including the number of each by region.

2. **Multi-tiered System of Supports (MTSS).** Provide any guidance for the use of MTSS and if in use, briefly describe implementation challenges. Include any reading programs the department supports for core reading and Tier 2 and 3 interventions.
3. **Special Education Instructional Support.** For early childhood and for school-aged students, please briefly describe and/or provide copies of any relevant documents reflecting district initiatives/training regarding the following areas regarding positive educational outcomes, and briefly describe any challenges.
  - a. **Inclusivity.** To increase the provision of *meaningful* instruction to students with IEPs in general education classes with the support of special educators and/or paraprofessionals.
  - b. **Separate Classes.** To support improved instruction/rigor for students educated in separate classes/schools (who take the regular and the alternate assessment).
  - c. **Students Taking Alternate Assessments.** To support improved instruction of students with significant cognitive disabilities who participate in alternate assessments.
  - d. **Assistive Technology.** To improve access to and usage of assistive technology.
  - e. **Post-Secondary Transition.** To support the provision of improved transition activities and services for post-secondary success, including access to community-based work experiences.
  - f. **Transition Between Grade Levels.** To supporting the transition of students with IEPs who are transitioning between grade levels, i.e., preschool to kindergarten, to middle school, to high school.
4. **Professional development (PD).** Provide number of days available for staff development (school-based and districtwide) and any current policies regarding mandatory nature of any PD for special education. Briefly, describe how PD is provided and content related to students with IEPs. Also, briefly describe what PD is integrated for special educators jointly and in collaboration with general educators or others.
5. **Staffing Models.** For each special education instructional model/program, e.g., inclusion (with/without co-teaching), cross categorical, specialized program, provide any protocol/guidance showing the staffing model for special educators and paraprofessionals.
6. **Case management.** Briefly describe school-based roles and responsibility for overseeing special education, case management for assessments and IEP meetings, including titles or description of individuals responsible for oversight.
7. **Special Education Teachers.** Briefly describe method for determining the allocation of special educators to schools and who hires these teachers (central office special education or principal)
8. **Paraprofessionals**
  - a. **Types.** If there is more than one position for paraprofessionals/aides assigned to support students with IEPs, describe the various positions and duties.
  - b. **Determination of need.** Briefly describe and/or provide documents providing guidance for IEP teams to determine an individual student's need for additional adult support.

- c. **Allocation.** Briefly describe method for determining the allocation of paraprofessionals to schools.
  - d. **Hiring/Supervision.** Briefly describe the hiring/supervision process for paraprofessionals, specifying the role of principals and central office.
9. **Related Services.** Briefly describe method for allocating number of related services staff (e.g., social workers, psychologists) to schools.
10. **Significant Disproportionality.** Indicate if there has been any finding of significant disproportionality for any area, which would require the use of 15% of IDEA funds for intervening services. If so, specify the areas and significant disproportionality risk ratio levels.
11. **Impartial Hearings**
- a. **Number of impartial due process hearing requests** for 2022-23
  - b. **Number settled.** Of number settled, figures for: parent attorney fees, compensatory education, services, etc., by type.
  - c. **Number that went to a hearing.** Of this number, total with any finding against the department. Also, amount of parent attorney fees, compensatory education, services, etc., by type.
  - d. Number of 2022-23 requests outstanding.
  - e. Number of 2021-22 requests still outstanding.
  - f. Summarize major special education issues raised by parents/guardians in 2022-23 and indicate if any are different from the past.
12. **Fiscal.** Describe high-cost special education areas, including the area of concern, and relevant current and any useful historic fiscal information.
13. **Parents.** Briefly describe ways in which parents are provided with training and support in special education meetings that promote their meaningful participation.
14. **Accountability.** Briefly describe and provide any copies explaining any department accountability system pertaining to the performance of personnel and/or instruction of all students, including students with IEPs. Provide any illustrative reports, report cards, etc.

#### Subsequent Document Request

- 1. Reason or considerations for not using the **developmental delay IDEA category**?
- 2. **RLV fines usage.** Any description of 2022-23 and 2023-to date for activities paid for by RLV fines. (Can associate this with the data question above.)
- 3. **Any written RTI or PBIS guidance** for administrators and school personnel, and expectations of use before a school team decides to forward a student to register for a special education evaluation. (Also, I believe Juliana Rosado referred to a training handout she used.)
- 4. Any description(s) of **professional development** organized by the central office or regional centers to improve instruction for students with IEPs.
- 5. Description of any **PRDE literacy initiatives/projects** for all students and for students with IEPs.

6. **RLV presentation of stipulations and criteria** with status (I believe *staff member name* referred to this presentation)
7. **Stipulation verification.** Any written information about the process the monitor uses to verify that a stipulation can be archived, e.g., time frame, etc.
8. **Related Services Guidance.** Any information that guides COMPU teams to decide the type and amount of each type of related service for a student. Same for any PRDE personnel and for contractual personnel.
9. **Staffing formula** (if any) used to guide the number of special education teachers and special assistants to each school based on such factors as number of students with IEPs, routes for each, etc.
10. **Routes.** Description of routes 1, 2, 3, and 4 and any **guidance for COMPU** teams to assign a route to the student.
11. **Reading.** Any guidance or professional development documents to help teachers teach reading at elementary grades for students without IEPs? For students with IEPs? Any purchased programs for these two groups of students?
12. **Monitoring Therapy Progress.** Any description of how PRDE expects therapists to monitor student progress. (By therapy area if progress monitoring is different for any area.)
13. **Special education programs**
  - Names of different programs, e.g., autism/independent life
  - Description of student characteristics for each program.
  - For each program, provide any maximum class size and any number of special assistants assigned to each class.
14. **Transition**
  - Transition Guide
  - Transition Work Plan and any barriers to implementation
15. **Sample initial evaluations and IEPs at elementary level**
  - One student with SLD (route 2)
  - One student with autism (route 2)
  - One student with SLD (route 3)
16. **Reading curriculum maps**

#### Number of Documents for Specific Topics

In addition, large numbers of documents were provided for curriculum maps (29), documents for RLV corroboration (21), and Head Start (31).

### APPENDIX D. ON-SITE AGENDAS

The following individuals were invited to meet with The Council of the Great City Schools' Strategic Support Team (SST).

February 25 – March 1, 2024

<b>Sunday, February 25</b>	
6:30pm	Team Dinner with Secretary of Education Loredana Valtierra- USDE, Policy Advisor Francisco Martinez Oronoz- Advisor Ray Hart, Executive Director, CGCS Christina Kishimoto, Consultant Mary Lawson, General Counsel, CGCS Miguel Pabon, Consultant Alka Pateriya, Director of Strategy and Partnerships, CGCS Sue Gamm, Consultant Nicole Mancini, Chief of Academics, CGCS

<b>Monday, February 26</b>	
8:20am	PRDE Offices
9:00am	Noelia Cortes, Deputy Secretary for Special Education
10:00am	Enid Diaz, Director of Admin of Special Ed. Finance
10:30am	Rosa Rios- HR
11:00am	Jessica Santiago, Special Assistant- Transportation
11:30am	Chief Academic Officer, Dr. Beverly Morro,
1:00pm	Daiber Carrion, Director of Monitoring and Compliance
2:00pm	Jocelyn Carrasquillo, Director of Legal Division, - Legal
3:00pm	Jessica Santiago, *Yahaira Graci, Daiber Carrion - Rosa Lydia Velez
4:00pm	Advocates from the University of Puerto Rico Maria Garay, Dean of Administrative Affairs; Georgina Candal; Celeste Freyetes Gonzalez, Adjunct Professor, Law School; Carmen Warren,

<b>Tuesday, February 27</b>	
8:40am	PRDE Office
9:00am	Juliana Rosado, Operations Manager SPED and Jessica Diaz
9:45am	Jessica Diaz and Juliana Rosado, Operations Manager SPED - Behavioral Problems
11:00am	Mr. Daniel Ruse
12:00 -12:45pm	Dina Romero- Auxiliary Secretary for Integrated Student Services Regina Cibes – Psychology, Regina D. Cibes Silva; Evelyn Rivera – Nursing, Evelyn Rivera García; Andrea Irrizary- Social Work; Maribel de Jesus- Social Work
2:00pm	San Juan Center for Special Education- Carmen Larregui, Director, Overall center operations, 504
3:00-3:45pm	Helga Milan, Facilitator (Teaching Facilitators- Behavioral needs, Reading Instruction)

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3:45- 4:45pm	San Juan Regional Director, Jorge A. Santiago Ramos Mr. Ony Alvarez, Exec Director of Extended Schedule in Afternoons
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<b>Wednesday, February 28</b>	
8:40am	PRDE offices - SPED Conference Room
9:00am	Meeting with SPED teachers; Elementary- Maria Rosado Ramos
10:00am	Meeting with SPED teachers High- Xiomaraly Lopez Cruz- High- Rafael Quiñónez Diaz- Vocational School in San Juan
11:00am	High- Juan E. Borrero
1:00pm	Meeting with Service Assistants/Paraprofessionals Elementary- Ana Candelario- Istria Aponte Munoz Middle-Jonathan Gonzalez, Amaury Erazo- High- Haydee Vazquez Albino (salón a tiempo completo vida independiente/full-time classroom independent living); Ivette Cabrera Rodríguez-
2:00pm	Janet Lopez, State Coordinator for Transition
2:00pm	Ray Hart joins PRDE Decentralization Meeting

<b>Thursday, February 29</b>	
9:00 - 11:00am	Lucille Grillasca in Ponce- School 9am – Jose Ojeda Ruiz – Director 9:30-10:00 General ed teachers JACKELINE MORALES SANTIAGO and OLIVETH CORTADA CAPP Special Ed teachers VONNE RIOS TORRES and JOSE LEON CRUZ- 10:00-10:30 Paraprofessionals LAURA RIVERA TORRES and ANAIS COLON VEGA 10:30-11:00 School Social worker and Psychologist MARIA TORO RIVERA and MARIA GARCIA TORO
1:00pm	Special Education Center Ponce - Vanessa Aponte, Director
2:00pm	Edgar Ortiz Santiago and Jose E. González Rullán (Teaching Facilitators, Behavioral needs, Reading Instruction)
3:00pm	Gabriel J. Hernandez Santos (Transition Lead)
3:30pm	Christina Rivera Costa (Auxiliary Director, Service Center, Finances)

<b>Friday, March 1</b>	
10:00am	Ponce Regional Office
10:45am	Roberto Rodriguez, Regional Director, and student services staff. Enrique Torres Tore, Auxiliary Superintendent for Student services,
11:30am	Jorge Almodovar Lucena, Academics Lead

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**Tuesday, March 26**

9:00am	Escuela Carmen Casasús Martí: Mun. Añasco School Principal (Dr. Yarelis Molina) will coordinate and have set up with different groups in separate sessions: (9:00 - 9:15am) School Principal **Dr. Yarelis Molina Joined by Elie Omar and Ricardo Pitre Feliciano (9:15 - 9:45am) Special Ed Teachers: Prof. Jennifer Serrano; Prof. Soamy Hernández; Prof. Yolanda Arce; Prof. Rivera (9:45 - 10:15am) General Education Teachers: Prof. Nelson Martí; Prof. Noel Díaz; Prof. Dayanara Ramírez (10:15 - 10:45am) Social Worker and Psychologist: Prof. Madeline Feliciano; Prof. Alexandra Traverso (social worker); Mrs. Rocio Carrasquillo; Marta Mendoza – assistant; P1 asst autism 10:45 - 11:00) Special Ed Paraprofessionals together with social workers/ and psychologists
1:00pm -1:45pm	Special Education Center, Mayaguez, Director, **Elie Omar Ríos Sojo Also – Sped Center Director, Aguadilla, ** Limaris Olan
1:45pm -2:15pm	Regional Superintendent – **Ricardo Pitre Feliciano
2:15pm -2:45pm	Lorna Medina- Parent, T1 and Pilot Board Member (CAL)
2:45 - 3:30pm	Special Ed - Facilitators Meeting Dr. Jessica Aponte; Dr. Risela Ferrer; Prof. Noemí Minguela; Prof. Lissette Rojas; Prof. Aida Seda; Dr. Victoria García; Dr. Vanessa Alvarez; Prof. Carolina Rivera
3:30pm - 4:15pm	Services Coordinators Mrs. Vanessa Vélez, Mrs. Marta Valentín, Mrs. Emily Ramos, Mrs. Brenda Sánchez, Mr. Mario Torres, Mrs. Nilda Padilla
4:15 - 5:00pm	Determination – Registration – Parent Services (All Social Workers with various functions) Myraida Alvarez, Julievette Arroyo, Geraldine Rivera, Paula Ortíz, Yadira Soto, Josué Rosas
5:00 – 5:30 pm	Aileen Pérez, Omar Castillo, Dicxean Rivera Richardo

**Wednesday, March 27**

9:10 - 9:40 am	Regional Office of Department of Education Prof. Lissete Quintana (Special Education Data and fulfillment coordinator) Prof. Tatiana Pérez - (Early Childhood Facilitator) Prof. José Felipe Pérez (Students Services Superintendent)
9:40am - 10:05am	Student Services Nursing Coordinator (Mrs. Grace Flores) Family Engagement Coordinator (Dr. Alberto Cortés) Social Worker Coordinators (Prof. Leonardo Vázquez - Prof. Ermelinda Feliciano)
10:05am -10:40am	Student Services Psychologist Coordinator (Dra. Eliane Otero) School Counselors (Prof. Miguel Torres) Jennifer Mercado (School counselor – vocational center)

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10:40am - 11:15am	HR Meeting – Academic HR Director Hector Velez Non-Academic HR Coordinator (Mrs. Ivy Leen Ortíz Efre) Mariel Lopez Rodriguez– Legal Complaints Investigator
11:15- 12:00pm	General Academic Director Dr. Ivelis Román; Dra. Risela Ferrer; Dr. Jessica Aponte
1:15pm - 1:30pm	School Visit: School Manuel A. Barreto (School Tour)
1:30pm - 2:00pm	School Principal (Vilmarie Rivera – School Principal)
2:00pm	ORE office
2:15pm - 3:00pm	Project Staff – Prof. William Matías (Pilot Superintendent) Prof. Betania Feliciano; Prof. Maribel López; Dra. Risela Ferrer
3:00pm - 3:45pm	CTE Meeting – Dr. Juan Carlos Cruz Cintrón Mirrael Ruiz Zapata – occupational director, facilitator, car mechanics Samuel Cotto Ramirez – director of a school with a CTE program
3:45pm - 4:15pm	Transportation (Special Ed and Regular Education) Mrs. Brenda Varela (Finance Director) Mrs. Wilnelia Pérez. (Public School Transportation Director)

## APPENDIX E. STRATEGIC SUPPORT TEAM MEMBERS

**Dr. Ray Hart, Executive Director, Council of the Great City Schools (CGCS).** Dr. Raymond C. Hart is the Executive Director of the Council of the Great City Schools. Hart, who has more than 30 years of experience in research and evaluation, was previously the Director of Research for the Council, and his work has spanned policy areas such as post-secondary success and college readiness, professional learning communities and school improvement, teacher effectiveness and value-added analysis, early childhood education, and adult and workforce literacy. He has worked with clients from several federal agencies, including the U.S. Department of Education, the U.S. Department of Housing and Urban Development, the U.S. Department of State, the National Science Foundation, and many state and local departments of education.

Before joining the Council, Ray led the Analytic Technical Support Task for the Regional Educational Laboratory – Mid Atlantic. He also served as the Executive Director of Research, Planning and Accountability for Atlanta Public Schools; President and CEO of RS Hart and Partners, which is an evaluation and assessment consulting firm; and an Assistant Professor of Research, Measurement, and Statistics at Georgia State University. His career began in 1989 as a program director for African American, Hispanic, and Native American students in Engineering and Science. Ray holds a Ph.D. in Evaluation and Measurement from Kent State University, an M.Ed. with a focus on Curriculum and Instruction – Educational Research from Cleveland State University, and a B.S. in Industrial Engineering from the Georgia Institute of Technology.

**Dr. Tamara Alsace, CGCS Consultant.** A career-long educator and scholar, Tammy is retired from the Buffalo Public Schools, where she held various positions over 32+ years, including bilingual elementary and special education teacher, professional development specialist, and most recently as Director of Multilingual Education. As such, she directed the bilingual, ESOL, & world languages programs. Since “retiring”, she has worked as an independent consultant for the Regional Bilingual Ed Resource Network (RBE-RN) and the Council of the Great City Schools. She is currently an Associate Investigator for the City University of New York Initiative on Immigration and Education (CUNY-IIE). Dr. Alsace also serves on several non-profit boards and is active in professional & community organizations in Buffalo and at the state and national levels. A tireless advocate for the educational rights of multilingual/immigrant students and their families, she is a past president of the NYS Association for Bilingual Education (NYSABE) and part of the current leadership team of NY Advocates for Fair/Inclusive Resources for Multilingual Learners (NY-AFFIRMS). She is co-editor of the book: *Bilingual Special Education for the 21st Century: A New Interface* (IGI Global, 2022)

**Dr. Christina DeJesus Kishimoto, Founder and CEO, Voice4Equity.** A native of the South Bronx in New York City, she is a bold advocate for social justice and a national leader on education policy and equity matters. Prior to founding Voice4Equity, Christina served as State Superintendent of Education for the State of Hawaii and on Governor David Ige’s Cabinet. She also served as district

Superintendent in Hartford, Connecticut, and in Gilbert, Arizona. She has served in significant strategy and leadership roles in PK-12 education, higher education and the private sector and today leverages those networks to convene the annual national When Women Lead policy and technology education summit. Christina has served on a number of boards including the [Council of Chief State School Officers](#), the [Association of Latino Administrators and Superintendents](#) where she served as President, the [Nellie Mae Education Foundation](#), and currently serves as a [Grupo 21](#) Advisory Board Member.

**Sue Gamm, JD, National Expert and CGCS Consultant.** Sue is a special educator/attorney who has spent more than 40 years specializing in the systemic improvement and effective education of students with disabilities and those with academic and behavioral challenges. Sue has blended her unique legal/special education programmatic expertise with her experiences as the chief specialized services officer for the Chicago Public Schools (CPS), attorney/division director for the Office for Civil Rights (US Department of Education), and special educator to become a highly regarded national expert as an author, consultant, presenter, and evaluator. While with CPS, Sue co-chaired the district's initiative to develop alternative and safe schools with a budget of \$12 million. Since her 2002 retirement from CPS, Sue has worked in 34 states/District of Columbia with 72 school districts and five state educational agencies to improve instruction and support for students with disabilities. She has written special education standard operating procedure manuals and/or MTSS for 10 school districts, and has shared her knowledge of IDEA, Section 504, and the Americans with Disabilities Act, and related issues at more than 70 national, state, and local conferences. Sue has authored/co-authored numerous periodicals and publications, including Online Guide to RTI-Based LD Identification Toolkit (National Center for Learning Disabilities); Using Multi-Tiered System of Supports (Council of the Great City Schools) and Disproportionality in Special Education: Identifying Where and Why Overidentification of Students Occurs (LRP Publications). She has testified before Congressional and Illinois legislative committees and helped to prepare U.S. Supreme Court Amicus Curiae briefs for the Council of Great City Schools and has served as an expert witness in nine special education federal court cases.

**Mary Lawson.** Mary is the General Counsel for the Council of the Great City Schools, where she develops Council legal positions representing the needs and concerns of urban public-school systems and advises the Council's leadership on legal, legislative, and regulatory education issues. Before joining the Council, Lawson was assistant general counsel for the Miami-Dade County School Board. She also served as assistant general counsel for the Broward County School Board and was an associate attorney at Hogan Lovells, LLP. Mary began her career in the classroom, spending eight years as a social studies teacher in Pittsburgh Public Schools, Broward County Public Schools, and Maryland's Anne Arundel County Public Schools. Mary holds a B.A. in political science and an M.A. in teaching from the University of Pittsburgh. She received a J.D.

from Howard University School of Law in Washington, D.C and is admitted to practice in the District of Columbia and Florida.

**Dr. Nicole Mancini, CGCS Chief of Academics.** Nicole assists urban districts in enhancing instructional systems to boost student achievement. Before joining the Council, Nicole served as the chief academic officer for Florida's Broward County Public Schools, providing strategic communication and support to school and district administrators, coaches, and teachers on effective teaching and learning practices. She was also the vice president of educational services for the Florida Speech and Hearing Association and an adjunct faculty member for Florida Atlantic University, teaching early childhood and clinical education courses. Nicole has a B.A. in Psychology (Cum Laude), Master of Science in Speech Language Pathology, and completed the necessary coursework for Educational Leadership Certification from Florida Atlantic University. She has a Doctorate in Education with a focus on Child and Youth Studies: Early Literacy and Reading from Nova Southeastern University. She also holds her Certificate of Clinical Competency in Speech Language Pathology (CCC-SLP) from the American Speech-Language-Hearing Association and her Speech Language Pathologist Professional License from the State of Florida Department of Health.

**Miguel Pabon, Assistant Superintendent of the Capitol Region Education Council's (CREC) Magnet Schools,** located in Harford Region, Connecticut. In this role, Miguel is involved in all areas of district leadership, with a particular focus on Special Education and Pupil Services. He is originally from Manati, Puerto Rico, and was raised in Bridgeport, Connecticut since the age of five. Since 2005, Miguel has held a variety of leadership positions in several school districts in Connecticut, including Hartford, CREC, Windham and Waterbury. While in Hartford Public Schools, he held leadership roles such as Coordinator of Psychological Services, Assistant Principal, and Special Education Supervisor. Since then, Miguel has served as Director of Special Education & Pupil Services in Windham, Connecticut for 4 and half years, and then in Waterbury, Connecticut for over 2 years, before returning to CREC in the role of Assistant Superintendent. Miguel holds a bachelor's degree from the University of Connecticut, a master's degree and Certificate of Advanced Graduate Studies (CAGS) in School Psychology from Northeastern University (Massachusetts), as well as a Sixth-Year degree in Educational Leadership from Central Connecticut State University.

**Alka Pateriya, CGCS Director of Strategy and Partnerships.** Joining the Council in 2021, Alka previously provided support to NAEP's TUDA districts and also managed other large-scale assessment and data collection projects at Westat. Working closely with the Bill & Melinda Gates Foundation, she supported the six participating districts, and the research partners involved in the Measures of Effective Teaching project. Most recently, she led Tripod Education Partners, partnering with schools and districts in the US and overseas to capture feedback from students, parents, and teachers. Alka started her career as a teacher and administrator in the Washington DC area, teaching middle school social studies in Silver Spring, Maryland, and serving as Dean of

Students at a school in Washington, D.C. She holds an M.Ed. in Secondary Education from George Washington University and a B.A from Northwestern University.

**Valeria Silva, CGCS Consultant.** Valeria served as Superintendent of the St. Paul Public School District (Minnesota) for over seven years, she has been a trailblazer in the field of education. After leaving her post as a district superintendent, she relocated to Puerto Rico to deliver the AASA' Superintendent's Academy, which reached over 180 educational leaders throughout the Commonwealth. With the Puerto Rico Educational Foundation, she then provided full-time executive coaching to the regional superintendents on the island. Since then, Valeria has continued working as an educational consultant in the United States and internationally, and through organizations, including the State of Minnesota Department of Education, New York City Leadership Academy, New Leaders, AASA, CGCS, PUCV, and "Lideres Educativos" Chile. In recognition of these and other activities, she was honored as one of the 'Leaders to Learn From' by Education Week, and one of the '100 Mujeres Líderes de Chile. Her educational background spans institutions in Chile and the United States, and includes the Broad Superintendent Academy, a rigorous ten-month executive management program designed for aspiring school system leaders.

## APPENDIX F. ABOUT THE COUNCIL AND HISTORY OF STRATEGIC SUPPORT TEAMS

The Council of the Great City Schools is a coalition of 78 of the nation’s largest urban public-school systems. The organization’s Board of Directors is composed of the superintendent, CEO, or chancellor of schools and one school board member from each member city. An executive committee of 24 individuals, equally divided in number between superintendents and school board members, provides regular oversight of the 501(c)(3) organization. The composition of the organization makes it the only independent national group representing the governing and administrative leadership of urban education and the only association whose sole purpose revolves around urban schooling.

The mission of the Council is to advocate for urban public education and to assist its members in improving and reform. The Council provides services to its members in the areas of legislation, research, communications, curriculum and instruction, and management. The group also convenes two major conferences each year; conducts studies of urban school conditions and trends; and operates ongoing networks of senior school district managers with responsibilities for areas such as federal programs, operations, finance, personnel, communications, instruction, research, and technology. Finally, the organization informs the nation’s policymakers, the media, and the public of the successes and challenges of schools in the nation’s Great Cities. Urban school leaders from across the country use the organization as a source of information and an umbrella for their joint activities and concerns.

The Council was founded in 1956 and incorporated in 1961 and has its headquarters in Washington, DC. Since the organization’s founding, geographic, ethnic, language, and cultural diversity has typified the Council’s membership and staff. The following table lists the Council’s history of Strategic Support Teams.