

# META, Inc.

Multicultural Education, Training & Advocacy

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Roger L. Rice, Executive Director  
Jane E. López, Senior Staff Attorney

\* Organizations listed for identification purposes only.

February 3, 2010

Secretary Arne Duncan  
United States Department of Education  
LBJ Education Building  
Room 7W 311  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Notice Regarding Civil Rights Violations and the Massachusetts Race to the Top Application

Dear Secretary Duncan:

The undersigned are national Latino civil rights organizations, including the League of United Latin American Citizens (LULAC) and the National Council of La Raza. We write to express our deep concern with the ongoing history of violations of the basic civil rights of Latino and other English Language Learner students in the Boston Public Schools in the context of Boston's Intended participation in the Massachusetts Race to the Top grant. Race to the Top is surely an important, if not essential, education reform the integrity of which should not be allowed to be called into question by the use of RTTT funds as a platform for continuing civil rights denials. This concern was pointed out to the Massachusetts Department of Elementary and Secondary Education (MDESE) in the attached letter from local Massachusetts Latino organizations of December 30 that spells out in some detail the nature of the violations and, equally important, the nature of the needed remedy. The MDESE did not respond.

Several points are clear beyond question.

First, the problems to which we allude are long-standing. As early as 2004, the MDESE informed Boston of the fact that literally thousands of ELL students were facing denials of their basic rights to appropriate education. Despite repeated efforts by MDESE, Boston has resisted facing up to its obligations and continues to do so.

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DEPARTMENT OF EDUCATION  
OS/ES/OCSD

Second, the problems are matters of public record, known to the MDESE as well as the United States Justice Department. The factual bases for this Notice are not really in dispute.

Under the circumstances we wish to give you Notice of the seriousness we attach to this situation. Should the Department conclude that Massachusetts' grant application is one of those selected in the first round, it is essential that the Department clearly condition the transfer of any RTTT funds to the Boston Public Schools upon full compliance with the points described.

Sincerely yours,



Roger L. Rice, Esq.  
Jane E. López, Esq.  
META, inc.

**MEXICAN AMERICAN LEGAL DEFENSE AND  
EDUCATIONAL FUND (MALDEF)**

Atty. Veronica Rivera, Legislative Counsel  
1016 16th Street NW, Suite 100  
Washington, D.C. 20036

**LATINO JUSTICE/ PRIDE**

Atty. Jose L. Pérez, Associate General Counsel  
Atty. Jackson Chin, Associate Counsel  
99 Hudson St, 14th Floor  
New York, NY 10013

**On Behalf Of:**

**LEAGUE OF UNITED LATIN AMERICAN CITIZENS  
(LULAC)**

Brent A. Wilkes, National Executive Director  
LULAC National Office  
2000 L Street, N.W., Suite 610  
Washington, D.C. 20036

**NATIONAL COUNCIL OF LA RAZA (NCLR)**

Delia Pompa, Vice-President, Education  
Raul Yzaguirre Building  
1126 16<sup>th</sup> Street, N.W.  
Washington, D.C. 20036

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December 30, 2009

Commissioner Mitchell O. Chester  
Atty. Diane Curran, Esq.  
Massachusetts Department of Elementary and Secondary Education  
75 Pleasant Street  
Malden, MA 02148-4906

Secretary Paul Reville  
Executive Office of Education  
One Ashburton Place, Room 1403  
Boston, MA 02108

Re: Participation of Boston Public Schools in Massachusetts Race to the Top Grant Application

Dear Commissioner Chester, Secretary Reville and Attorney Curran:

The Department has sought public comment on its' draft Race to the Top Proposal. We note that one aspect of that proposal concerns ensuring equitable distribution of highly effective teachers under RTTF criteria (D)(3) and (D)(5). We also note that local education agencies that are to participate in the proposal, and presumably gain substantial new federal funds if the proposal is selected, are to submit memoranda of understanding to the Department no later than January 13, 2010.

The undersigned are civil rights and community based organizations of the Latino and immigrant communities. We write to express our deep concern with the continuing pattern of serious violations of the basic civil rights of English Language Learner (ELL) students in the Boston Public Schools. The situation is not new, indeed it predates the current administration of the MDESE and is documentable at least back to 2005 if not before. To summarize the problem, all reflected in documents from the Boston Public Schools in your possession, the BPS has for years: a) failed to accurately identify ELL students in need of English language services, b) failed through a series of maneuvers including not providing accurate information to parents and not offering seats in ELL programs to ensure that all ELL students were instructed in English by certified ESL teachers and in content by highly qualified trained Sheltered English immersion (SEI) teachers.

As a result, and despite the efforts of the MDESE to achieve compliance with these basic civil rights guarantees for Boston's ELL students, the BPS remains in default of its legal obligations to thousands of vulnerable young people. A local education agency (LEA) in such a posture is, in our view, ineligible to participate in an RTTF grant without major additional, binding and verifiable commitments. Specifically, if Boston is to be part of the Massachusetts RTTF submission, the MDESE must require a specific Boston addendum to the generic MDU that assures the MDESE and through the MDESE, the United States Department of Education, that:

1. It will within the next 6 months identify all potential ELL students who Boston failed to assess for English Reading and Writing from the 2005-2006 school year on, including those now in middle and high school, review their current academic success, including grades and MCAS scores of those students, and prepare for each student who is not succeeding, an emergency plan to provide ESL and SEI content instruction as needed.
2. It will within the next 6 months identify all ELL students who were wrongly pushed into "opt-out" status, including those now in middle and high school, review their current academic success as described above and develop an emergency plan to ensure that no later than September 2010 each of these students is afforded ESL instruction from a certified ESL teacher and content instruction from a highly qualified SEI teacher as described in Boston's July Corrective Action Plan filed with the Department.
3. It will hire no less than an additional 120 certified ESL teachers beginning with an additional 30 ESL teachers in the current 2009-2010 school year, 50 in the 2010-2011 school year, and 40 in the following school year. Boston must assure the MDESE that it has committed local and state resources to hiring these teachers regardless of whether the RTTF grant is selected.
4. Answer fully within the next 30 days and without further equivocation the outstanding requests by both the MDESE and the United States Department of Justice for hard data on the extent of current year ELL student program services by school and training of teachers providing such services.
5. Answer fully within the next 30 days all additional unanswered elements specified by the MDESE in its August 4, 2009 Review of Corrective Action Plan dated as pointed out more fully to the MDESE in META's letter of December 9. Provide evidence that the Superintendent and School Committee have ratified and are fully implementing on a crash basis the designated LEP Seating Plan proffered by the BPS to the MDESE in its July 14, 2009 plan.

We can well imagine a range of excuses for continued delay that may be offered by an LEA that has thus far "successfully" managed to avoid its basic civil rights obligations to thousands of ELL students. We also know that the more expedient course may be to continue to overlook the continuing educational carnage now entering its 5th school year in the name of the new approaches and plans embodied in the RTTF. We have no quarrel with those approaches and plans and hope that Massachusetts can be and is approved for funding. But this may not come at the expense of turning a blind eye to what is one of the worst if not the most pervasive civil rights violation now taking place among major urban school districts in the United States.

Sincerely yours,



Atty. Roger L. Rice  
Atty. Jane E. Lopez  
META, Inc.

On Behalf Of:

LA ALIANZA HISPANA  
Janet Collazo, Executive Director

LULAC MASSACHUSETTS  
Regia Gonzalez, MA State Director

¿OISTE?  
Giovanna Negretti, Executive Director

**Commonwealth of Massachusetts**  
Department of Elementary and Secondary Education  
75 Pleasant Street, Malden, Massachusetts 02148-4906

**RECEIPT** ~~GENERAL PURPOSE~~ **VELOPE**

Date Received

1/30 PM

Item for:

Description

Receiver:

*M. Walsh*

