

RESOLUTION AGREEMENT

Puerto Rico Department of Education OCR Case No. 02-16-1252

In order to resolve Case No. 02-16-1252, the Puerto Rico Department of Education (PRDOE) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the following actions pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1:

By October 31, 2016, the PRDOE will convene a meeting of a group of persons knowledgeable about the Student [such as the Committee on Special Education, or Comité de Programación y Ubicación (COMPU)] to determine which special education services the Student requires for school year 2016-2017; and to determine the appropriate special education placement for school year 2016-2017. The PRDOE will invite the complainant to attend this meeting and will otherwise adhere to the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36. Additionally, the PRDOE will ensure that the Student receives all required special education and related aids and services during school year 2016-2017.

Reporting Requirements:

- (a) By November 15, 2016, the PRDOE will provide to OCR a copy of the Student's PEI for school year 2016-2017; the name of the school designated as the Student's special education placement for school year 2016-2017; the name(s) of the Student's service providers for school year 2016-2017; and the qualifications of the Student's academic teachers. The PRDOE will also provide a copy of the meeting minutes or similar documentation from the meeting referenced in Action Item 1, above; including an explanation for decisions made; and documentation demonstrating that the PRDOE provided notice of and invited the complainant to the meeting. OCR will review the documentation submitted to ensure that the PRDOE met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.
- (b) By December 30, 2016, and again on June 30, 2017, the PRDOE will provide documentation to OCR demonstrating that the Student was in his special education placement and that the PRDOE provided the Student with the special education and related aids and services required by the Student's PEI during school year 2016-2017. The documentation will include: (a) the date(s) when the PRDOE initiated services for the Student and provided a special education placement; (b) the name of the Student's service providers and the qualifications of the Student's academic teachers; (c) the name(s) and title(s) of any PRDOE staff responsible for ensuring

that the Student received special education and related aids and services; and (d) any additional supporting documentation such as service logs, and/or invoices.

Action Item 2:

By October 31, 2016, the PRDOE will convene a meeting of a group of persons knowledgeable about the Student [such as the (COMPU)] to determine whether the Student requires any remedial and/or compensatory services for any special education and related aids and services the Student did not receive in accordance with his PEI, from August 2015 until such date that PRDOE initiates special education and related aids and services for the Student, and provides the Student with a special education placement as determined by the COMPU in the meeting held pursuant to Action Item 1. If so, the group will determine a schedule and completion date for providing the remedial and/or compensatory services during school year 2016-2017. The PRDOE will invite the complainant to attend this meeting and otherwise adhere to the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36.

Reporting Requirements:

- (a) By November 15, 2016, the PRDOE will submit to OCR: (a) a copy of the meeting minutes or similar documentation from the meeting referenced in Action Item 2, above; including an explanation for decisions made; (b) the plan for providing any remedial and/or compensatory services to the Student; and, (c) documentation demonstrating that the PRDOE provided notice of and invited the complainant to the meeting. OCR will review the documentation submitted to ensure that the PRDOE met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

- (b) By July 31, 2017, the PRDOE will provide documentation to OCR of the dates, times, and locations that any remedial and/or compensatory services were provided, the name(s) of the service provider(s) and the qualifications of the Student's academic teachers; and, any additional supporting documentation such as service logs, and/or invoices.

Action Item 3:

By December 31, 2016, PRDOE will ensure that all instructional staff and administrators at the Student's special education placement responsible for ensuring the implementation of the individualized education programs (PEIs) for students with disabilities, and/or other relevant personnel, including any "central office" PRDOE personnel such as special education facilitators, receive training regarding the obligations to provide such students with special education and related aids and services, as required by their PEIs and pursuant to Section 504 and the ADA. The training will include at a minimum instruction regarding: (a) the responsibility to provide a free appropriate public education (FAPE) under the regulation implementing Section 504, at 34 C.F.R. §104.33; (b) the responsibility of any staff responsible for the delivery of special education services to provide students with special education and

other related aids and services as determined necessary by a group of knowledgeable persons (such as the COMPU or other Section 504 team); (c) the obligation to maintain timely, detailed, and accurate documentation regarding the provision of services to students with disabilities; and, (d) the obligation to track and/or monitor the provision of services to students with disabilities, to ensure that all required services are provided. The PRDOE will terminate its contractual obligations with any entity that fails to provide such training.

Reporting Requirement:

By January 1, 2017, the PRDOE will provide documentation to OCR demonstrating that training was provided consistent with Action Item 3 above, including: (a) the name(s) of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; and, (d) copies of any training materials disseminated.

The PRDOE understands that OCR will not close the monitoring of this agreement until OCR determines that the PRDOE has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.33; and the ADA, at 28 C.F.R. §§ 35.130(a) and 35.130(b)(1)(iii), which were at issue in this case. The PRDOE also understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the PRDOE understands that during the monitoring of this agreement, if necessary, OCR may visit the PRDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the PRDOE has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.33, and the ADA, at 28 C.F.R. §§ 35.130(a) and 35.130(b)(1)(iii), which were at issue in this case. The PRDOE understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceeding, including to enforce this agreement, OCR shall give the PRDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

9/16/16
Date

/s/
Gladiris R. Lopez Guemarez
Puerto Rico Department of Education