

RESOLUTION AGREEMENT

Puerto Rico Department of Education OCR Case No. 02-15-1478

In order to resolve Case No. 02-15-1478, the Puerto Rico Department of Education (the PRDOE) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below 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:

Within 30 days of execution of this agreement, the PRDOE will ensure that the Student is provided with the following, in accordance with the Student's PEI for school year 2015-2016, and as determined necessary by the Student's COMPU during a meeting held on May 28, 2015: (a) placement in an XXXXXX classroom based on the Student's XXX and XXXXXXXXXXXX XXXXX at XXXXX XXXXXXXXXXX XXXXX School (the School); and, (b) a balance table/balance beam and therapeutic balls for use in his adaptive physical education class, or any alternative equipment, which enables the PRDOE to assess the Student's progress in his adaptive physical education class, as stated in the goals and objectives section of the Student's PEI.

REPORTING REQUIREMENT: Within 45 days of execution of this agreement, the PRDOE will provide documentation to OCR demonstrating that the PRDOE has provided the Student with the classroom placement and adaptive physical education equipment described in Action Item 1. The documentation will include: (a) the date(s) when the classroom assignment became effective and when equipment was provided to the Student; (b) a description and photographs of the classroom and equipment; (c) the name of the Student's teacher and any other personnel in the classroom; (d) the name(s) and title(s) of any other PRDOE staff responsible for complying with Action Item 1; (e) any additional supporting documentation such as class rosters, purchase orders, and/or invoices; and, (f) documentation demonstrating how the Student's progress toward stated goals/objectives has been measured prior to the date of this agreement using the adaptive physical education equipment the School had provided to him for use in his classroom up to that point.

ACTION ITEM 2:

- A. Within 30 days of execution of this agreement, the PRDOE will convene a meeting of a group of persons knowledgeable about the Student (such as the COMPU) to determine whether any remedial and/or compensatory services would be an appropriate part of the Student's individual educational program (PEI) for school year 2015-2016, due to any lapses in or changes to the provision of the Student's special education and related aids and services during school year 2015-2016; and, if so, to develop a plan for providing those services. 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. The completion date for providing any remedial or compensatory services should not extend beyond July 31, 2016.

- B. Within 30 days of convening a meeting of a group of persons knowledgeable about the Student (such as the COMPU), pursuant to Action Item 2(A) above, the PRDOE will provide instruction to relevant School personnel regarding appropriate methods for implementing and documenting the implementation of the Student's PEI for the remainder of school year 2015-2016. This instruction may occur in advance of the meeting of the group of knowledgeable persons but shall occur no later than 30 days following this meeting. The instruction will include a discussion regarding the following: (a) maintaining timely, detailed, and accurate documentation regarding the provision of services to the Student; and, (b) tracking and/or monitoring the provision of services to the Student.

REPORTING REQUIREMENTS:

1. Within 30 days of the meeting of a group of persons knowledgeable about the Student (such as the COMPU) held pursuant to Action Item 2(A) above, the PRDOE will provide to OCR: (a) a summary of the meeting, including a description of decisions made; (b) the plan for providing any remedial and/or compensatory services to the Student, if determined necessary; 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.
2. By June 1, 2016, the PRDOE will provide documentation to OCR demonstrating that instruction was provided consistent with Action Item 2(B) above, including: (a) the name(s) of the individual(s) who provided the instruction; (b) a list of the individuals who attended the discussion and their positions; (c) the date(s) the discussion was held; and, (d) copies of any materials disseminated.
3. By September 15, 2016, the PRDOE will provide documentation to OCR demonstrating that it provided the Student with any remedial or compensatory services that were deemed necessary, pursuant to Action Item 2(A) above. The documentation will include: (a) the dates, times, and locations that services were provided; (b) a description of services provided; and, (c) the name(s) of the service provider(s).

ACTION ITEM 3:

By September 15, 2016, PRDOE will provide training to all School staff and administrators and/or other relevant personnel, including any "central office" PRDOE personnel, responsible for ensuring the implementation of the individualized education programs (such as PEIs) for students with disabilities, regarding the PRDOE's obligations to provide such students with the special education and related aids and services, as required by their individualized education programs and pursuant to Section 504 and the ADA. The training will include at a minimum

instruction regarding: (a) the PRDOE’s 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 PRDOE staff to provide students with the 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 PRDOE’s obligation to maintain timely, detailed, and accurate documentation regarding the provision of services to students with disabilities; and, (d) the PRDOE’s obligation to track and/or monitor the provision of services to students with disabilities, to ensure that all required services are provided.

REPORTING REQUIREMENT: By October 30, 2016, 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(a), 104.33(b)(1)(i) and 104.33(b)(2); and the ADA, at 28 C.F.R. §35.130(a), 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. Further, the PDROE understands that during the monitoring of this agreement, 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(a), 104.33(b)(1)(i) and 104.33(b)(2); and the ADA, at 28 C.F.R. §35.130(a), which were at issue in this case. The PRDOE understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings 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.

February 11, 2016
Date

/s/

Liliana Burgos Miranda
Special Assistant
Special Education Secretariat
Puerto Rico Department of Education