

RESOLUTION AGREEMENT

Puerto Rico Department of Education OCR Case No. 02-16-1197

In order to resolve Case No. 02-16-1197, the Puerto Rico Department of Education (PRDOE) assures the U.S. Department of Education, New York 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. § 12132 et seq., and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1:

The PRDOE confirms that providers have been in place since April 5, 2016, to provide the Student with the occupational therapy and physical therapy services required by the Student's individualized education program, or Programa Educativo Individualizado (PEI). The PRDOE will ensure that such services are provided for the remainder of school year 2015-2016.

Reporting Requirement: By June 30, 2016, the PRDOE will provide documentation to OCR demonstrating that the PRDOE provided the Student with occupational therapy and physical therapy services as required by the Student's IEP from April 5, 2016, through the end of school year 2015-2016. The documentation will include: (a) the date(s) when the PRDOE initiated occupational therapy and physical therapy services for the Student; (b) the name of the Student's occupational therapy and physical therapy providers; (c) the name(s) and title(s) of any PRDOE staff responsible for ensuring that the Student received the required occupational therapy and physical therapy; (d) any additional supporting documentation such as service logs, and/or invoices.

Action Item 2:

By May 15, 2016, the PRDOE will convene a meeting of a group of persons knowledgeable about the Student [such as the Comité de Programación y Ubicación (COMPU)], to determine whether the Student requires any compensatory services for the occupational therapy and physical therapy sessions the Student did not receive in accordance with his PEI from January 11, 2016, through April 5, 2016. If the COMPU or other group of knowledgeable persons determines that the Student requires compensatory services, the group will develop a plan for providing such services; with a completion date for providing the services not to extend beyond August 31, 2016. 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 May 30, 2016, the PRDOE will submit to OCR: (a) a copy of the meeting minutes or similar documentation from the meeting referenced in the Action Item 2

above; including an explanation for 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.

- a) By September 15, 2016, the PRDOE will provide documentation to OCR of the dates, times, and locations that compensatory services were provided, if any, and the name(s) of the service provider(s).

The PRDOE understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient 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 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 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.

Date

/s/
Authorized Representative
Puerto Rico Department of Education