

RESOLUTION AGREEMENT

Puerto Rico Department of Education OCR Case No. 02-19-1069

In order to resolve Case Number 02-19-1069, 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: Classroom Reassignment

The PRDOE asserts that due to the lack of a functioning air conditioner in the room used as the pre-kindergarten autism classroom during school year 2018-2019 (the classroom) at the XXXXXXXX XXXX Elementary School (School 1), on January 10, 2019, the PRDOE reassigned the students previously enrolled in the classroom for school year 2018-2019 to XXXXXXXX XXXXXXXX XXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX (School 2); and, on February 7, 2019, the students began receiving a full day of instruction from 8:00 a.m. to 2:00 p.m. at School 2.

(a) Reporting Requirement:

By May 31, 2019, the PRDOE will submit to OCR: (a) a copy of any meeting minutes or similar documentation regarding the PRDOE's reassignment of the students to School 2, including any documentation sent to the students' parents/guardians informing them of the new placement; (b) a class roster including the names of the students assigned to the pre-kindergarten autism classroom at School 2; and, (c) documentation demonstrating that the PRDOE provided each student with the special education and related aids and services required by the student's PEI, from February 7, 2019 through May 8, 2019, including: (i) the date(s) on which the PRDOE provided the special education and related aids and services required by each student's PEI; (ii) the name of the student's special education teachers and related aids and services providers; and (iii) supporting documentation such as attendance records, service logs, invoices, and/or, service provider timesheets.

Action Item 2: Provision of Remedial and/or Compensatory Services

By no later than May 31, 2019, for each student previously referred to in Action Item 1, the PRDOE will convene a meeting of a group of persons knowledgeable about each student [such as the Committee on Special Education, or Comité de Programación y Ubicación (COMPU)], to determine whether the student requires any remedial and/or compensatory services due to any lapses in instruction and/or the failure to provide special education and related aids and services that were required by the student's PEI during school year 2018-2019. For any student for whom the group determines that remedial and/or compensatory services are required, the group will develop a plan for providing such services; with a completion date for providing the services not

to extend beyond the end of the extended school year period for 2018-2019. The PRDOE will invite each student's parent/legal guardian 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, in making these determinations.

Reporting Requirements:

- (a) By June 15, 2019, the PRDOE will submit to OCR a copy of all meeting minutes or similar documentation from all meeting(s) conducted consistent with Action Item 2 above, including an explanation for decisions made; the plan for providing any remedial and/or compensatory services to each student, if determined necessary; and, documentation demonstrating that the PRDOE provided notice of and invited each student's parent/legal guardian 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, 2019, the PRDOE will provide documentation to OCR demonstrating that the PRDOE has provided each student with the special education and related aids and services required by the student's PEI between the date of the meeting conducted consistent with Action Item 2 above, and the end of school year 2018-2019. Such documentation will include: (a) the date(s) on which the PRDOE provided the special education and related aids and services as required by each student's PEI; (b) the name of the student's special education teachers and related aids and services providers; and, (c) any additional supporting documentation such as attendance records, service logs, invoices, and/or, service provider timesheets.
- (c) By September 15, 2019, for any student determined to require remedial and/or compensatory services, the PRDOE will provide documentation to OCR of the dates, times, and locations that any remedial and/or compensatory services were provided to each student, and the name(s) of the service provider(s).

The PRDOE understands that by signing this resolution agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. Further, the PRDOE understands that during the monitoring of the resolution 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 and obligations of the resolution agreement. Upon the PRDOE's satisfaction of the commitments made under the resolution agreement, OCR will close this case.

The PRDOE understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the resolution agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the PRDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the PRDOE's representative below.

5/8/19
Date

/s/
Authorized Representative
Puerto Rico Department of Education