



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION II

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REGION II
NEW JERSEY
NEW YORK
PUERTO RICO
VIRGIN ISLANDS

May 21, 2015

Rafael Roman Melendez
Secretary of Education
Puerto Rico Department of Education
P. O. Box 190759
San Juan, Puerto Rico 00919-0759

Re: Case No. 02-15-1090
Puerto Rico Department of Education

Dear Secretary Roman Melendez:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR) in the above-referenced complaint filed against the Puerto Rico Department of Education (PRDOE). The complainant alleged that the PRDOE discriminated against her daughter (the Student), on the basis of her disability, by failing to provide the Student with (a) occupational therapy from August 2014 through October 2014; and (b) XXXXX XX XXXXX, as required by her individualized education program (IEP) for school year 2014-2015.¹

OCR is responsible for enforcing 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, which prohibit discrimination on the basis of disability in programs and activities receiving financial assistance from the U.S. Department of Education. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The PRDOE is a recipient of financial assistance from the Department and is a public elementary and secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504 and the ADA.

OCR interviewed the complainant during the course of the investigation. OCR also reviewed documentation that the complainant and the PRDOE submitted. OCR made the following determinations.

The complainant alleged that the PRDOE discriminated against the Student, on the basis of her disability, by failing to provide the Student with occupational therapy from August 2014 through October 2014, and failing to

¹ The complainant originally alleged that the PRDOE discriminated against the Student, on the basis of her disability, by failing to provide the Student with (a) a school placement; (b) physical, psychological, occupational and speech and language therapies; and (c) a lift and stretcher, as required by her IEP for school year 2014-2015. During the course of OCR's investigation, the complainant clarified her complaint allegations as stated above.

Please be advised that the PROE may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions regarding OCR's determination, please contact Jeanette Tejada Bustos, Compliance Team Attorney, at (646) 428-3777 or jeanette.tejadabustos@ed.gov; or Nadja Allen Gill, Compliance Team Leader, at (646) 428-3801 or nadja.r.allen.gill@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: XXXXXXXXXXX, Esq.