

No. 2388
Date July 5, 1978 2:20 PM
Approved: Reinaldo Paniagua Díez
Secretary of State

REGULATIONS FOR THE SPECIAL EDUCATION PROGRAM

Preamble:

The people of Puerto Rico recognize the importance of education for the preservation and enjoyment of a democratic way of life and for the formation of capable and responsible citizens who respect the ethical values and rights of human beings.

By: Luis R. Delgado
Assistant Secretary of State

The Constitution of the Commonwealth of Puerto Rico establishes the right to education within certain limitations, and our Legislative Body authorizes and order the Secretary of Education to establish and support a public schools system, and to issue any regulations he deems necessary for the efficient discharge of his post.

Our Laws recognizes the right each handicapped child has to the enjoyment of an adequate and free education that will enable him to develop and use his potentialities to a maximum, regardless of the nature or severity of his disability.

With the purpose of orienting our handicapped school population towards the achievement of these objectives, these Regulations are adopted to establish the rights and duties of handicapped children and their parents in relation with the Special Education Program and to issue rules that will expedite the implementation of said program.

Article I-Legal Basis

A- These regulations are adopted by virtue of the power conferred to the Secretary of Education in Section 18 of Law #21 of July 22, 1977.

Article II-Applicability

A- These Regulations will apply in all relations between the Special Education Program and handicapped children and their parents or persons

in charge of them, and will be called "Regulations for the Special Education Program of the Department of Education".

Article III-Definition of Terms

A- The following terms, as used in these Regulations, will have the meaning hereinafter established:

1. Regulations- the present body of Regulations.
2. Secretary- the Secretary of Education.
3. Assistant Secretarship- the Special Education Program Assistant Secretarship of the Department of Education.
4. Academic Program- the academic program of the Department of Education.
5. Director- Special Education Program Director.
6. Regional Director- director of the teaching and administrative educational unit within the Department's organized structure, responsible of expediting the implementation of the educational and fiscal policy at Educational Region level established in the Special Education Program, as established by Law.
7. School Superintendent- Official directly in charge of administering a school district.
8. School Principal- Official directly in charge of the supervision and administration a school or teaching unit.
9. Teachers- Special education teacher in charge of handicapped children or offering special services.
10. Child- handicapped child or youth under 21 years of age, who has been evaluated, under the rules established by the Department of Education, as unfitted to be in a public school classroom of the Commonwealth of Puerto Rico Academic Program, or that can not be adequately trained or educated in said program if specially designed education, facilities or related special services or a combination of all these, are not provided. This term includes children who are lightly, moderately, severely retarded, children with sight, speech and hearing limitations, severely emotionally disturbed children;

children with orthopedic and motor coordination problems; children with multiple impediments; children with an specific learning disabilities; and children with health problems.

11. Parent or guardian- includes the father or mother with paternal authority, or any other person having authority, custody and/or responsibility for a student
12. School- building and/or structure, including the site where it is located and its annexed properties such as grounds and buildings belonging to the Commonwealth and those leased to private individuals, to be used for school purposes and under the total partial or temporary control or jurisdiction of the Department of Education.
13. School Schedule- the one set in each school according to its particular organization by which the school functions, indepently of any other school in the system. Included in the same are regular academic tasks and those activities sponsored or supported by the school for the enrichment of the curriculum.
14. Main Streaming- refers to providing the adecquate special education in the less restrictive enviroment to every child, to the emphasis that should be given to the children educational needs, instead of clinical or diagnostic labels as mentally retarded, with learning problems, physically disabled, deaf or gifted the search of new alternatives to help teachers working with children with learning problems wihtin their normal enviroment, to the combination of the academic and special education skills so that all the children have an equal educational opportunity.
15. Special Education- the education specially designed to meet the need of handicapped children, including teaching-learning experiences in the classroom, physical education and liberal arts, teaching at home or hospitals and private or public institutions duly recognized by the Department and meeting the requirements established by Law and free of charge to the parent.

16. Specialized Service- those services for the evaluation of disabilities which, due to their specialized nature, the Department is not able to offer for not having the necessary specialized personnel.

Article IV-Educational Services

A- Educational services offered by the Special Education Program shall be provided to children under 21 years of age, and the same shall be offered until child completes the appropriate educational program according to his condition.

B- When registered in the Public Education System, every child shall receive a student number. Children receiving the service provided by the program shall receive it according to the main streaming, not being segregated from not-handicapped children, and receiving both the same education to the highest possible grade.

Article V-Services

A- The Educational Region, through the special education unit, shall identify diagnose, locate and treat those children needing special education. Those children who, after the evaluation or subsequent evaluations, show a disability that make it impossible for them to be placed within the main streaming shall receive special education services at special school or public institution or at home depending on the resources available.

B- The School Superintendent shall inform the Regional Director of the continuous record reading of the children needing to be evaluated and placed in a school.

Article VI-Identification of Children

A- The Secretary, through the Regional Directos, shall keep an Open Record Census, so as to determine the number of children requiring special

education services.

B- Said record shall include all children previously evaluated, as well as those who have not been evaluated by the Department of Education. The School Superintendent shall submit to the Regional Director, and the latter to the Secretary, as many readings as solicited by him, but never less than two annually, which will be taken during the month of December and during the month of April, of the school year.

C- The Secretary shall submit these readings to the Assistant Secretary of which the Special Education Program is part, to be used on the preparation of the annual.

D. At least once a year the Secretary or his representative shall report to the citizenship of the Programs' scope, identification methods, findings and accomplishments. This activity shall be held, after being previously announced, in the date, place and way the Secretary deems serves the public's interest best.

Article VII-Children Evaluation

A- The Special Education unit at Educational Region level shall be in charge of evaluating those cases referred to them by their school districts. Said unit will visit the school district according to the demand existing for its services.

B- Before any child is evaluated his parents or guardian shall provide a written authorization for said evaluation.

Article VIII-Confidentiality of the Records

A- The special education unit at Education Region level shall keep a file or record of every child evaluated. The authorization of the parent or guardian and the results of all evaluations carried out shall be included on

this file or record. The original of this authorization shall be filed in the child's record at the school attended by the child.

B- This record shall be confidential and accessible to the evaluator or evaluators who have participated in the evaluation of the children or any official of the Department of Education or any person from the Educational Region or any other person duly authorized by the Secretary.

C- Said records shall be accessible to parents or guardians. There will be a copy of the same at the Principal's Office of school attended by the child.

D- These evaluations shall not discriminate against the child or his parents, except to identify the limitations or limitations in question.

E- The Regional Director shall establish in his office files of the children evaluated and receiving special education services, and of any other related information requiring a maximum of confidentiality.

F- Each school shall have a copy of the evaluation of the children registered thereat. The confidentiality of said copy is required. The records shall be accessible to the related teacher or teachers, the School Principal or the person assigned him the parent or person in charge, or the above mentioned personnel. The confidentiality of its contents shall be always guaranteed. Each evaluation shall be made in duplicate the original to be sent to the school file, and a copy to the Regional Director.

G- In transfer cases authorized by the parent and by competent authorities, the School Principal of the former school will send the new school principal the record of the transferred child. The means to be used for the sending of the record shall guarantee the confidentiality its contents and at the same time shall be fast and dependable.

H- Each file or record shall be identified in its cover only by child's student number.

Article IX-Individualized Plan

A- Any child receiving special education shall have an individualized work plan based on his strenghts and his educational needs. Said plan shall be prepared by the child's teacher, evaluator, parent. School Principal, and other special education resources, according to the findings, implied by the evaluation administered to the child. To this effect the evaluator and/or evaluators, shall share with other persons all information related to the child's condition, as well as any other information that will enable them to help the child effectively.

B- Said plan shall be designed according to the evaluation findings and shall include all the special education program stages to be administered to the child each semester.

C- The teacher can vary the process to be followed after having analyzed and discussed the case with the Special Education Regional Unit, the parent, the School Principal and other Special Education resources, whenever the evaluation made of him of the individualized plan justifies the action.

D- The teachers shall evaluate the child's individualized plan at least every two months and shall share with the parents the most outstanding findings. He shall also send the parents report indicating the aspects, if any, that should be reinforced at home to strengthen the special study plan.

Article X-Parents Rights

A- Any parent or guardian shall have the right to examine all relevant information in his child's record in regard to identification, evaluation,

placement, and to the clause that makes reference to the right to have a free public education.

B- The parent or guardian shall also have the right to be notified of any intention on the part of the Department of Education to initiate, to change or to refuse to change the child's identification, evaluation or placement; being required for this the written authorization of the parents, prior to the change.

C- Every parent or guardian shall have the right to issue complaints to the Department related to the child's identification, evaluation educational diagnostic prescription or placement, or to the clause that makes reference to the right to receive a free and appropriate education.

Article XI- Airing of Complaints

A- Complaints shall be initiated at school district level, being filed the same at the office of the School Superintendent, who shall vary a copy forward to the corresponding Regional Director and to the school principal of the school attended by the child.

B- Complaints shall be heard within twenty (20) worksays after being filed at the office of the Superintendent of that school district.

C- The Department of Education shall guarantee due process of law at the hearing to be offered to the plaintiff.

D- The person presiding said hearing shall never be an employee or official of the Department of Education, nor related to the particular child's education. The Secretary shall assign the person to preside the hearing based on his qualification and the same shall not receive any kind of compensation for this service. He shall also assign two persons, employees or officials of the Department as members of the panel hearing the complaint.

E- Any party shall have the right to legal assistance and to the assistance of expert witnesses on handicapped children problems, to show evidence, to cross-examine the witnesses and to the compulsory appearance of the same to a written or electronic recording of the hearing or hearings and to written findings of facts and decisions complaints shall be adjudged with ten (10) workdays after being heard.

F- Pleas for reconsideration can be addressed to the Secretary within the next ten (10) workdays after the complaint was adjudged. The Secretary shall issue his decision on the plea for reconsideration within the next ten (10) workdays.

Article XII-Training for the Personnel

A- The Educational Regions shall refer their needs for personnel training on the special education field to the Educational Planning and Development Area Training Programming Center.

B- Said Center, taking into consideration the resources and needs of the system, will recommend to the Secretary those financial aids that should be granted to the applicants. The Secretary grants the same, according to said recommendations.

C- Applications for financial assistance for special education studies shall be filed by the applicant directly to the Training Center, after being admitted to the institution where studies will be carried.

D- The Special Education Program, through the Training Center shall offer at least two-in-service trainings annually, one of them bring offered at the Region.

Article XIII-Special Education Teachers

A- Teachers can be assigned according to the resources available, to special private schools or non-profit private institutions, for school tasks exclusively. These shall be ruled by the school calendar and schedule, as disposed by the Department for the Special Education Program.

B- The assigned teachers shall be supervised by the Department according to the rules and regulations established for this purpose. Derivations from these rules could result on the suspension of the teacher or any other resource assigned to that school, upon notification to the school principal.

Article XIV-General Provisions

A- No disposition on these regulations shall be construed, as a limitation of the Secretary's authority to adopt measures he may deem necessary to guarantee special education to children to their needs and the resources available to the State.

Article XV-Separability of Provisions

The unconstitutionality or invalidity of any of the articles of these regulations shall not affect the validity of the others.

Article XVI-Enforcement Repeal

These regulations will come into effect upon compliance with the Regulations Act of 1958, as ammended.

San Juan, Puerto Rico on June 30, 1978.

Carlos E. Chardón
Carlos E. Chardón
Secretary of Education

Registered at the Department of State

July 5 1978 2:20 p.m.
Date