

“Organic Act for the Department of Education of Puerto Rico”

Act. No. 149 of July 15, 1999 as amended

(Contains amendments incorporated by:

Act No. 146 of August 10, 2000
Act No. 170 of August 12, 2000
Act No. 202 of August 205, 2000
Act No. 429 of December 19, 2000
Act No. 46 of June 25, 2001
Act No. 191 of December 31, 2001
Act No. 192 of December 31, 2001
Act No. 88 of June 21, 2002
Act No. 94 of June 25, 2002
Act No. 235 of September 27, 2002
Act No. 237 of September 28, 2002
Act No. 176 of August 1, 2003
Act No. 242 of September 3, 2003
Act No. 252 of September 3, 2003
Act No. 155 of May 18, 2004
Act No. 177 of August 1, 2004
Act No. 194 of August 5, 2004
Act No. 33 of January 23, 2006
Act No. 77 of April 12, 2006
Act No. 100 of May 19, 2006
Act No. 108 of May 26, 2006
Act No. 184 of September 1, 2006
Act No. 257 of November 30, 2006
Act No. 7 of February 12, 2007
Act No. 160 of November 2, 2007
Act No. 49 of April 29, 2008
Act No. 102 of June 30, 2008
Act No. 40 of July 20, 2009
Act No. 76 of August 16, 2009
Act No. 80 of August 16, 2009
Act No. 84 of August 20, 2009)

(Amendments non-incorporated:

Act No. 21 of February 24, 2011
Act No. 161 of July 29, 2011
Act No. 165 of July 29, 2011
Act No. 224 of November 21, 2011)

To establish a new “Organic Act for the Department of Education of Puerto Rico”; establish the public policy of Puerto Rico in the area of education; create a Public Education system based on community schools with academic, fiscal and administrative autonomy; provide for the governing body of said schools and their integration to an educational system; establish the rights and obligations of the students and the teaching and non-teaching school personnel; define the functions of the Secretary of Education, of the Director and of the Mediator; authorize the Secretary of Education to prepare and implement regulations to govern the Public Education System; exempt the Department of Education and the schools from certain laws; to repeal Act No. 18 of June 16, 1993, as amended, known as the “Community Schools Development Act,” and Act No. 68 of August 28, 1990, as amended, known as the “Department of Education of the Commonwealth of Puerto Rico Organic Act,” and Section 23 of Act No. 230 of May 12, 1942.

STATEMENT OF MOTIVES

The public schools have always been the principal agent of change and social mobility in Puerto Rico. They were established on the basis of three essential principles: nonsectarian, free and universal education. The schools bring together the students of both sexes and classify their enrollment according to grades and educational levels. The Public Education system was established through the order of the Military Government in 1899 and its first Organic Act was implemented in 1901 under the provisions of the Foraker Act.

During the centuries of Spanish rule, education was not generally speaking an area of government involvement. As in Europe, education here was in the hands of religious or private schools or was provided by tutors to the children of wealthy families.

It was not until 1865 that a Public Education System was organized on the Island by Gubernatorial decree. The Order structured the teaching programs, established the requirements for exercising the teaching profession and gave the municipalities the obligation to support the schools.

Public schooling was at the time generally conducted at the homes of the teachers with groups of between fifteen and thirty children of the same sex. The teaching process, of a rudimentary nature due to the lack of preparation of the teachers, consisted in memorizing the reading primers and learning by rote the answers these gave for the questions the students had to answer in order to complete the courses. Memorizing was done through oral repetition spoken in unison.

The Order of 1865 provided compulsory education for all boys and girls from six to nine years of age. It was, of course, a utopian endeavor. The lack of teachers and schools, the existence of a scattered and isolated rural population, the unwillingness to open schools for girls and the weakness of the insular treasury with sixty (60) percent of its resources committed to military and ecclesiastical budgets, did not allow significant advances that would lead to the universal education set forth in the Governor’s Order. In fact, the change in sovereignty found Puerto Rico with eighty-six (86) percent of its children without schools and with a degree of illiteracy of almost ninety (90) percent among the population.

The educational scenario of Puerto Rico began to change in 1899 when the Insular Government conferred priority status to education. The Department of Education, created in 1900, began to implement a vigorous plan for the construction of schools and to make teaching a professional career through the University of Puerto Rico, founded in 1903. Likewise, in order to provide women with an education, it was determined that all schools of the system should be open to girls.

The means to defray said plan were contributed by the Insular Government. Once the government obligation with the military and ecclesiastical budgets was over, the treasury was free from the expenses that had consumed much more than half of the revenues of the Treasury during the Spanish rule. The resources thus freed, added to those that the Federal Government contributed on account of the customs and excise taxes paid for Puerto Rican products imported into the American market, permitted the establishment of schools in the most remote corners of the Island. This then allowed that the doors to knowledge be opened to all sectors of the population.

During the present century Puerto Rico has made significant progress in the field of education. Upon the conclusion of the first half of the century, sixty-five (65) percent of school age children took part in the learning process; five thousand (5,000) classrooms had been constructed and furnished; not a single barrio (ward) lacked a school; and the government invested around thirty (30) percent of its budget in education. This effort, which had been sustained for fifty (50) years, raised the literacy index of the Island to seventy (70) percent. In the 80's, said index increased to ninety (90) percent and the proportion of school age children in the schools increased to over eighty (80) percent. This outstanding feat achieved by the public school system made Puerto Rico one of the most educationally developed areas in the world.

During those very same years, Puerto Rican society was undergoing fundamental changes. Our public schools and universities enriched our talent reserves, that is, they produced a wealth of technically skilled men and women and other professionals, particularly as regards scientific knowledge, which allowed for the development of activities that changed the profile of Puerto Rico. Without the contribution of the Public Education System and the University, Puerto Rico would still be bogged down within the patriarchal structures of traditional society, with no energies left to make the transition toward democratic pluralism.

In the years that followed the Second World War, the Public Education System of Puerto Rico became the target of repeated criticism. Said criticism was generally centered on the quality of education, which had been sacrificed—as detractors argued—for the sake of mass education. Other issues under attack concerned the centralized structure of the Department of Public Instruction, the bureaucratic insensitivity of its officials and the lack of initiative of both the schools and the teachers.

In 1961, the Council on Higher Education published a comprehensive study on the education system conducted by request of the Committee on Public Education of the House of Representatives. This study based the [...] on the System, and in analyzing the results of college admission tests, it was concluded that between 1948 and 1959, the performance indexes of public school graduates had dropped significantly.

The study conducted by the Council on Higher Education inspired the undertaking of reforms to the Public Education System. In pursuing the decentralization of the Department,

educational regions were established, and in order to enhance the quality of education, efforts were doubled to eliminate duplicate enrollment and special study programs were tested for those students of high academic standing. Some of these programs, although successful, were not instituted as regular academic courses; they vanished upon conclusion of the term of the Secretary who had implemented them.

The 70's marked the emergence of repeated proposals to reevaluate the Public Education System in view of achieving a total reform. To that effect, Act No. 17 of August 9, 1974, established a Committee on Educational Reform. In June 1977, said Committee introduced a Report attached to a Bill to establish the “Puerto Rico Department of Education and Culture”. The idea behind this effort was to create a complex institutional system whereby the Department of Education, the University of Puerto Rico and the Institute of Puerto Rican Culture would be integrated under a single “umbrella”.

Said Report had no effect whatsoever. Meanwhile, dissatisfaction with the operations of the educational system continued to be heard. Its direction did not vary, that is to say, its centralized structure, the bureaucratic excesses of the Department, the lack of initiative in the schools, the poor quality of the courses and programs offered and the low performance level of the students still remained. The deterioration of the system was evident. Studies conducted by the Department itself from 1978 presented a grievous outlook: over seventy-five (75) percent of high school students and over half of junior high school students lacked the skills corresponding to their years of study.

With that scenario as backdrop the Legislature provided for the creation of a Joint Committee for Integral Educational Reform in 1985. After five (5) years of studies and deliberations, the Committee submitted a report together with a Bill to restructure the educational system in Puerto Rico. It was not, however, an educational reform Bill, but the draft of a new Organic Act for the Department, which became Act No. 68 of August 28, 1990.

The new Act retained the centralized structure of the Department of Education but was careful to set apart the powers and responsibilities of the officials and other components of the System. Furthermore, although it provided for the schools to remain subordinate to the jurisdiction of the school districts and to the authority of the superintendents, it acknowledged the need to give them their autonomy...someday.

The Government of Puerto Rico, with the support of the voter mandate, has been promoting the long awaited Integral Educational Reform of the Educational System since 1993. Four (4) ideas pervade the same:

- a. The student is the cornerstone of the educational endeavor and the remaining components of the school system are the facilitators.
- b. Education is a continuing process which begins before the child reaches school age and which maintains its development throughout his/her life.
- c. In a world where knowledge is constantly and rapidly changing, to educate means to develop skills to achieve knowledge by oneself and to make the student aware of the power such knowledge may have on his/her life.
- d. The school must enhance the value of individual responsibility and endeavor to broaden the autonomous scope of its components.

For the past six years the process for reform has been centered on three main principles:

To wit:

a. *Reconsideration of the Right to Education*: Refers to an effort to broaden the scope of the constitutional right to education so as to favor pre-school age children and needy youths who aspire to a post-secondary education. It is also an endeavor to broaden the decision-making power of the parents over the education of their children and to give due value to the paternal authority over that of *parents patriae* of the Government. The reconsideration of the right to education is made evident in several laws approved during past years.

b. *The Programmatic or Substantive Reform*: The reorganization in this case refers to the quality of the curriculum; to its integration with the needs and aptitudes of the students; to the implementation of effective ways and means to teach languages, the sciences and mathematics; to the use of computers as educational tools; to the professional growth of the teachers and improvements in their salaries and working conditions and to the provision of services as complements to the teaching process to all students who may need them.

c. *The Structural and Functional Reform*: Refers to the reorganization of the entities that set the public policy on education, that is, the Board of Trustees of the University, the Council on Higher Education, the General Council on Education and the Department of Education; the reform of the first two bodies was instituted through Acts No. 16 and 17 of June 16, 1993, respectively, while the reform of the Department of Education was preliminarily set forth in Act No. 18 of June 16, 1993.

In fact, the aforementioned Act No. 18, created the Community Schools and provided for the separation of their functions, granted them academic, fiscal and administrative autonomy and established a system of government free from autocratic accents for their operations. Said Act transferred the decision-making power in the System from the Department and the school districts to the schools themselves.

The aforementioned Act No. 18, furthermore entrusted the implementation of the new educational model to an Educational Reform Institute which devised the administrative, fiscal and academic systems to be instituted at the Community Schools; trained the teaching and non-teaching personnel on the technical aspects of their operation and developed procedures to unify one thousand five hundred autonomous schools into a coherent educational system. Within five years the Institute concluded a reorganization and transformation effort which the aforesaid Act No. 18 had estimated would take six.

Said Act established that once the implementation of the Community Schools had been completed, Puerto Rico would have “a new system of public education...” which would need a new Organic Act.

This Act complies with that mandate and brings to fruition the structural and functional process for the reform of the Public Education System of Puerto Rico.

Be it enacted by the Legislature of Puerto Rico :

CHAPTER I. — GENERAL PROVISIONS. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER I]

Section 1.01. — Title of the Act. (3 L.P.R.A. § 143a note)

This Act shall be known as the “Organic Act of the Department of Education of Puerto Rico”.

Section 1.02. — Statement of Purpose. (3 L.P.R.A. § 143a note)

(a) The Constitution of Puerto Rico sets forth the right of all persons to an education “...which shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms”. It also directs the Government to establish “...a system of free and wholly non-sectarian public education” at the elementary and secondary school levels.

(b) These principles constitute the essential purpose of this Act, which is based on three fundamental premises:

1. The students are the reason for being of the educational system and the teacher their main resource.
2. The interaction between students and teachers is the foremost purpose of the schools. All other school activities, notwithstanding their nature, are justified only when they allow and enhance the teaching process or strengthen the services the schools render to the community.
3. The schools belong to the communities they serve which must take part in their government.

(c) The educational endeavor of the schools must fulfill the purposes that the Constitution and this Act set forth for the Public Education System of Puerto Rico. To that effect the schools must help the students to:

1. Develop a dynamic notion of the historic moment and the geographic space in which they live.
2. Create awareness of the governing laws and principles of nature, achieve harmony with it and developing an attitude of respect for all living things and the environment.
3. Acquire proficiency in oral and written communications in Spanish and English.
4. Become aware of the need to develop a good physical condition, emphasizing the importance of being physically, mentally, and spiritually healthy.
5. Develop skills to achieve rapidly changing knowledge.
6. Be capable of undertaking vocational or technical occupations or pursuing advanced studies in Puerto Rico or abroad.
7. Develop a sound and positive awareness of their identity regarding the many facets of their personality and a respectful attitude towards their fellow beings.
8. Be able to deal with conflicting situations involving their personal wishes and the moral imperatives dictated by the social order.
9. Think and act as autonomous individuals and accept responsibility for their decisions.
10. Develop awareness of their rights and duties as citizens and the willingness to exercise these by taking part in the decision-making processes of the community.
11. Develop positive attitudes regarding their productive efforts.

In relation to the communities they serve, the schools must:

1. Collaborate in analyzing the problems of the community schools and offer alternatives that may be used to solve these.
2. Foster the participation of the parents in the educational endeavors of the schools.
3. Help in emergency situations.
4. Promote activities that enrich community life and help in understanding its problems and finding solutions to the same.
5. Identify those situations and/or the needs of the community that affect the schools.

(d) A close relationship exists between the objectives mentioned and the manner in which this Act sets forth the general structure of the Public Education System and designs its functional unit, the community school.

This Act conceives the community schools as dynamic entities, capable of adjusting the courses and programs they offer to the needs of the students and nimble enough to adapt to the changes brought about by the development of pedagogical technology and knowledge.

Their autonomy is the guiding principle behind these schools. This Act provides for such autonomy so that the functional units of the system may enjoy:

1. A measure of discretion to use the resources appropriated to them pursuant to the priorities they themselves establish.
2. The authority to review the courses offered by the curriculum and adjust these to the particular nature, experiences and needs of the students.
3. The ability to essay means for improving the courses and programs they offer, be it by revising the courses or perfecting the methodology employed in the teaching process.
4. The obligation to keep abreast of pedagogical developments.
5. The responsibility of caring for and maintaining their facilities and handling emergency situations.
6. A body that will allow for the participation of the community in governing the schools.

Lastly, this Act grants the schools their autonomy for another reason: so that they may perform their very important function without the risk of straying from their purpose when changes in the direction of the Department arise. The autonomy of the schools constitutes a guarantee to the stability of the teaching endeavor.

(e) This Act does not foresee each school as a universe in itself, unattached to the rest and out of the jurisdiction of the Department. On the contrary, all the schools are part of the Public School System of Puerto Rico, all are under the jurisdiction of the Secretary and all are guided by general standards as provided in this Act so as to provide coherence to the System as a whole.

In fact, none of the provisions of this Act undermines the authority granted by the Constitution to the Secretary to direct the public education efforts in Puerto Rico. Even should certain administrative duties be transferred from the central level of the Department to the community schools, these must follow the norms established by the Secretary for the Public Education System.

Section 1.03. — Obligatory School Attendance. (3 L.P.R.A. § 143b)

(a) School attendance shall be obligatory for all students between the ages of five (5) and eighteen (18), except for those students of high academic standing and those enrolled in any

secondary education program for adults or other preparation programs for readmission to regular day school or those who have taken the high school equivalency exam.

(b) It is hereby absolutely prohibited for students to leave the school grounds during school hours, as well as any interruption during regular school activities, provided also, that the Secretary shall be bound to establish through regulations the procedure to authorize students to leave during school hours.

(c) Any parent, tutor or person in charge of a minor who fosters, allows or tolerates the truancy of said minor or who neglects his/her obligation to ensure that the latter attends school, shall be guilty of a fourth-degree felony and be sanctioned with a fine of five thousand dollars (\$5,000) or a term of imprisonment of one (1) year, or both penalties at the discretion of the court. He/she shall also incur an administrative fault which may entail the cancellation of the benefits of the Child Support Program, Public Housing Programs and Subsidized Housing Programs. The Department shall establish, through regulations, a system for the notification of absences to the parents of minors so that they may comply with the obligation imposed by this Act. The regulations shall provide the manner in which the agencies that administer the welfare programs are to be notified about the truancy cases so that they may take action as provided in this section.

(d) The Secretary shall establish the manner in which to implement the provisions of this section through regulations. The regulations shall:

(1) Make the directors responsible for maintaining a daily attendance record for each student attending school; Provided, further, That said record shall include information on every person who takes a student out of school before the end of the school day. Said persons shall be bound to submit in writing the reasons for the student to leave the school grounds during school hours, present a photo identification, state his/her relation to the student, and sign the daily attendance record required by law (school register). However, the person who takes out the student shall be authorized by the parent holding patria potestas or the tutor of the student and his/her name shall be included in a list that shall be prepared by the school director at the beginning of each school semester.

(2) Establish the procedures the schools shall follow to handle cases concerning those students with truancy problems. Said procedures shall include visits to the homes of said students as well as guidance meetings with their parents, tutors or persons in their charge as to how to handle such a situation.

(3) Establish the procedure to refer cases of absenteeism to the pertinent agencies for their corresponding action according to the provisions of subsection (b) of this Section.

CHAPTER II. — THE SCHOOL. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER II]

Section 2.01. — Definition and Composition of the School. (3 L.P.R.A. § 143c)

The school is the functional unit of the Public Education System of Puerto Rico. It is composed [of]:

(a) The students.

(b) The academic staff, composed of the teachers, the professional teaching support personnel and the school director.

- (c) The administrative staff, composed of the administrative officials and the office and maintenance employees of the school.
- (d) The external component, constituted by the parents of the students and representatives of the community served by the school.

Section 2.02. — Classification of the Schools. (3 L.P.R.A. § 143d)

The schools are classified according to the level of the courses they offer, that is, as elementary schools, junior high schools, high schools and postsecondary schools. High schools may offer regular and vocational programs and postsecondary or specialized vocational programs. The postsecondary schools are technological schools that offer academic, vocational, technical and advanced skills programs at university and non-university levels. The schools shall be classified according to a system of categories based on the level of the courses offered, the nature of their programs and the size of their enrollment and shall be administered by directors with equivalent categories.

Section 2.02-A. — Municipal Schools. (3 L.P.R.A. § 143d-1)

The schools created by a municipality pursuant to Act No. 81 of August 30, 1991, as amended, known as the “Commonwealth of Puerto Rico Autonomous Municipalities Act,” shall have their own ordinance. It shall consist of an Education Code approved by the Municipal Legislature of its jurisdiction and the norms on organization and operation of schools set forth by the Governing Board of the municipal education system. Municipal schools are out of the jurisdictional scope of the Department of Education and its Secretary.

Section 2.03. — Function of the Schools. (3 L.P.R.A. § 143e)

- (a) The schools shall focus the efforts of their components and channel the former to achieve what the Constitution and the Statement of Purpose of this Act, set forth as the purposes of the Public Education System of Puerto Rico.
- (b) The schools shall also constitute a center of continuous activity throughout the year where shall be held orientation and community service activities and programs in collaboration with the Department of the Family, the Department of Health, the Environmental Quality Board, the Agricultural Extension Service and the Puerto Rico Police, among other entities. The school directors shall give non-transferable priority to ensuring that the schools comply with their community function.
- (c) The schools shall be responsible for retaining their students and for the excellence of their academic courses.

Section 2.04 — Autonomy of the Schools. (3 L.P.R.A. § 143f)

The schools shall operate under the autonomy granted by this Act in all academic, fiscal and administrative matters. To that effect:

They shall establish their institutional priorities and:

- (a) Select their teaching personnel according to the provisions of Sections 4.07, 4.08 and 6.06 of this Act, the provisions of Act No. 94 of June 21, 1955, as amended [18 L.P.R.A. secs. 260 et seq.], concerning the certification of teachers, of Act No. 312 of March 15, 1938, as amended [18 L.P.R.A. secs. 213 et seq.], regarding teacher tenure, and to the applicable federal laws and regulations.
- (b) Adopt regulations for their administration.
- (c) Adapt their study programs to the needs and interests of their students.
- (d) Experiment with new organizational techniques and new teaching methods.
- (e) Organize activities to promote the professional improvement of their teachers and the teaching support personnel.
- (f) Organize activities to complement the teaching process on behalf of their students and the communities they serve.
- (g) Establish incentives to promote educational excellence in the schools.
- (h) Maintain recreational, sports and cultural programs in order to discover and enhance the special talents of their students.
- (i) Provide school cafeteria services for their students.
- (j) Execute contracts for the maintenance and vigilance of the schools, among others.
- (k) Prepare and administer their budgets.
- (l) Purchase books, equipment, materials, supplies and services for the school according to their own regulations and the standards and procedures established for that purpose by the Secretary.
- (m) Maintain records and files of the students and the personnel and in the case of transfers, remit these to the concerned school.
- (n) Care for their land, facilities and equipment.
- (o) Foster activities for the parents to participate in the educational process of their children.
- (p) Accept donations from private individuals.
- (q) Draft all reports as required by the Secretary.
- (r) Perform any other functions that will render the educational endeavor of the school more effective.
- (s) Assign adequate classrooms and facilities for the regular, physical education courses.

Section 2.05. — Budgetary savings. (3 L.P.R.A. § 143g)

The schools shall retain their budgetary savings, although with the prior authorization of their school councils, they may use these savings for the purposes established in this Act, as well as to open investment accounts that generate assets. Said savings may not be kept in detriment to the services rendered to the students and the community.

Section 2.06. — Sale of agricultural Products, works of art, movable goods. (3 L.P.R.A. § 143h)

The schools attached to the agricultural education program, or programs specialized in agriculture shall retain sixty percent (60%) of the total proceeds of their sales in their bank accounts and may use them to improve the agricultural projects conducted in the school

farms and for other purposes consonant with this Act, with the prior authorization of the School Council.

The schools with specialized programs in visual arts shall hold an open activity for the community and the public in general annually that, among other aspects, provides for the sale of the works in visual arts produced by the students, and which result in works of art. Furthermore, the sale of products, movable goods, works, and activities generated, designed, or created by students in other schools with specialized programs, as well as vocational, technical, or sports schools, is hereby authorized.

Every student subject to this Act, shall receive basic training in business administration and marketing corresponding to their area of studies.

With the exception of what is established in the first paragraph of this section, the product of the sales, shall be primarily destined for the benefit of the students or, with the expressed consent of the students and their parents, shall be used for the purchase of materials needed for the artistic creation and exhibition in the visual arts schools; or to generate, produce, or create the products, movable goods, works, and activities in the vocational, technical, and sports schools, pursuant to the approved regulations.

The Director and the School Council of the respective schools are hereby authorized to jointly approve the rules and regulations for the implementation of this section.

Section 2.07. — Service contracts with Outside Sources. (3 L.P.R.A. § 143i)

The schools may enter into service contracts with outside sources when said services cannot be obtained from within the System or in cases of extreme need. The directors shall execute said contracts in strict compliance with the regulations and standards in effect at the Department and in lack thereof, with the regulations and standards applicable to government entities.

Section 2.08. — The Schools; General Standards for their Administration. (3 L.P.R.A. § 143j)

The operating autonomy that this Act grant the schools does not hinder the Secretary [from] exercising his/her power to promulgate general standards for the administration of the Public Education System. Neither does it exempt him/her from the obligation of ensuring that the sense of unity and purpose of the System as a whole is broken [sic]. To that end, the Secretary shall implement the standards set forth in Section 5.03 of this Act, as well as the regulations and standards related to the administration of the schools.

Section 2.09. — School charter. (3 L.P.R.A. § 143k)

The school charter is the official document upon, which the agreement by virtue of which a school of the Public Education System is granted the status of community school, is based. Said agreement shall be signed by the Secretary, as party of the first part, and by the school, as party of the second part, as represented by its Director and the Chairperson of the School Council. [The charter shall be displayed in prominent areas of the school.] The charter shall include objectively measurable and verifiable expectations regarding the quality and

effectiveness of the teaching process in the school, such as retention, graduation and university admission rates, among others, which may serve as guidelines for the parents, the persons in charge of the students and the students themselves to be able to determine the desirability of enrolling and remaining in said school.

The charter shall acknowledge the academic, fiscal and administrative autonomy of the school; prescribe the commitment of the teachers to practice the teaching profession so that the purposes set forth in Section 1.02 of this Act as the objectives of the Public Education System may be fulfilled; commit the Director and the School Council to promoting and maintaining a sound environment for learning that will allow the orderly development of the school; and spell out in detail the obligations of the latter towards its students and the community.

The charter shall furthermore commit the Director to observe sound management practices and standards for the administrative and academic endeavors of the school as well as to implement the legal and regulatory provisions that lend coherence to the Public Education System.

Section 2.10. — Charter effectiveness. (3 L.P.R.A. § 143l)

The charter of a school shall have a term of effectiveness of three (3) years after which it must be renewed. Renewal shall be made after an evaluation of the performance of the school has been conducted and after verifying that the school has complied with the commitment it contracted after being granted community school status. During the course of the evaluation, the Secretary, the Director and the Chairperson of the School Council may ratify the basis of the agreement previously signed and may also modify or amend the same.

Section 2.11. — Nature of the charter and school evaluation. (3 L.P.R.A. § 143m)

The charter of a school does not constitute a certification of accreditation nor shall it stand for those certifications the General Council on Education must issue to the schools of the Public Education System after the evaluation required by law. These are two separate certifications that respond to complementary, though different, purposes.

Section 2.12. — Loss of Recognition as Community School. (3 L.P.R.A. § 143n)

The Secretary shall withdraw his/her recognition to a community school and render its charter ineffective when:

- (a) It is confirmed that the educational endeavor is ineffective.
- (b) Administrative deficiencies or irregularities that justify said action exist.
- (c) The school incurs, or allows persons under its control to incur, significant violation of the laws or the regulations which govern the Public Education System; fails to comply with the agreements set forth in its charter; or fails to observe the principles that underlie the public policy on education.

Withdrawal of recognition of a school based on the provisions of subsection (a) of this section shall entail the loss of accreditation of the school should the Council on General Education so decide.

The Secretary shall provide, through regulations, for all matters pertaining to the temporary operation of the schools that lose [sic] their recognition, a condition under which they may not remain for over one year. If at the end of said term the school has not recovered its recognition, the Secretary shall grant an additional term of ninety (90) working days. If the difficulties that hinder the renewal of the charter are not resolved during that term, the Secretary shall remove from office the school personnel responsible for said situation. The students of the schools whose recognition as community schools has been revoked shall enjoy the services offered to all other students of the System.

Section 2.13. — School Director — Functions. (3 L.P.R.A. § 143o)

The Director shall be accountable to the Secretary and the School Council for the academic and administrative performance of the school and shall also act as representative of the latter before the community. The Director, as part of his/her duties, shall seek and foster the participation of the teachers, parents, students and members of the community, as established in this section and according to any regulations and/or circular letters promulgated. Besides the obligations provided in this section and those imposed through regulations, the school director shall have the following functions and duties:

- (1) Plan, organize in a flexible manner, direct, supervise and evaluate all teaching activities of the school under his/her direction.
- (2) Promote and maintain an institutional climate favorable to the learning process that will provide protection and safety to all members of the school community.
- (3) Design, discuss and obtain approval of the faculty and the School Council of the organization of the school for every elective year.
- (4) Evaluate the effectiveness of the teaching/learning process using a variety of modalities. (Performance, retention and awards).
- (5) Protect and maintain in a safe place all personnel and student files, academic records, grade and homeroom registers and any other documents related to the academic development of the students and the administrative personnel of the school.
- (6) Make available all documents required for an audit or monitorial exercise related to the fiscal and administrative operations established in this Act.
- (7) Direct the preparation of the school work plan for every school year and implement short and long-term means for attending to and solving problems involving the teaching process. Discuss the same with the faculty and the Council.
- (8) Apply for accreditation of the school and make its approval feasible by directing the coordination and preparation processes leading to that end.
- (9) Provide all the necessary coordination efforts related to the services that complement the teaching process.
- (10) Implement and evaluate the curricular standards and promote and channel all initiatives taken and recommendations made by the teachers in order to adapt the curriculum to the needs of the school, after these have been discussed and approved by the Council.
- (11) Study, recognize and determine the needs, interests and strengths of the community served by the school so as to help in the development of the curriculum most suited to said needs through an official document discussed with the faculty and the School Council.

- (12) Draft and revise the charter together with the School Council and ensure that the same is complied with.
- (13) Organize a disciplinary committee and ensure compliance with the regulations established for such a purpose.
- (14) Conduct a study regarding the needs of the school so as to request the physical, fiscal and human resources required by the school and determine, in consultation with the school council, the use to be given to the funds appropriated to the same.
- (15) Organize, circulate and provide educational services for the community.
- (16) To keep the statistics of their school updated, submit the reports they are required and disclose information on the offerings, the achievements attained and the needs of the school. The statistics shall include information of students who are teen parents.
- (17) Provide the community with the services and resources available to the school, according to the laws and regulations in effect.
- (18) Direct the process for evaluating the teaching and administrative personnel of the school and encourage them to seek the highest level of achievement by creating a stimulating and harmonious school climate.
- (19) To engage in the pertinent efforts so that the school has the necessary materials to enrich and differentiate the learning process, including the acquisition of educational materials on subjects related to the contributions of women in the areas of politics, economy, culture and society in general for the school library, and use the funds appropriated for such purposes. The Librarian, with the [advice] of the teachers and the Director, shall furnish the selection and purchase of the material indicated above.
- (20) Encourage the development of innovative projects and research programs.
- (21) Carry out the corresponding personnel recruitment functions following the directives of the Department of Education and employing the available operative mechanisms to fulfill that need.
- (22) Implement the school bylaws.
- (23) Perform the functions assigned to him/her according to the guidelines established for the organization and operations of the school councils.
- (24) Perform any other delegated functions incidental to the management and administration of the school as well as others functions intended to improve the administration and quality of the educational process.

Section 2.14. — School Director — Appointment and qualifications. (3 L.P.R.A. § 143p)

The Director shall be appointed by the Secretary pursuant to the laws and regulations in effect. At the time the appointment is issued, the person thus designated shall be of legal age, and a citizen of the United States. He/she shall also be a professional teacher, with at least five (5) years of teaching experience and shall have training that accredits him/her as a school administrator.

Section 2.15. — School Director — Evaluation of performance. (3 L.P.R.A. § 143q)

The Director shall hold office for an unspecified period, but his/her performance shall be subject to periodic evaluations by the Secretary and the school board. The evaluations shall be made according to the procedure established by the Secretary, through regulations.

Section 2.16. — School Director — Grounds for removal from office (3 L.P.R.A. § 143r)

The Secretary, after a hearing to such effect, may remove a school director from office for any of the following reasons:

- (a) A negative report of his/her performance after the corresponding evaluation procedure.
- (b) Be charged [with] or convicted [of] a crime, or a misdemeanor, which implies depravation.
- (c) Negligence in the performance of his/her duties or neglect of his/her obligations.
- (d) Serious charges against him/her in audits of the Office of the Comptroller or the Department of Education.
- (e) Any other grounds indicated in Act No. 115 of June 30, 1965, as amended [18 L.P.R.A. §§ 274 et seq.].

Any director facing the charges indicated in subsections (b) and (d) of this section, shall be summarily suspended from his/her functions by the Secretary while the charges are discussed.

The Secretary shall establish the corresponding procedure for the removal of a director, through regulations.

Section 2.17. — Designation of Deputy Director. (3 L.P.R.A. § 143s)

With the approval of the school board and the ratification of the Secretary, the Director shall designate a deputy director from among the members of the teaching staff to assist him/her in the administrative tasks of the school. The deputy director shall have a designated teaching appointment and may perform the functions of the director when the director is absent, is on vacation, or cannot perform them for any other reason. The Secretary may delegate the function that he/she is charged with in this section [to] officials under his direction.

In the case of schools with more than one thousand (1,000) students enrolled, the Secretary may designate a second director who shall perform his/her functions under the supervision of the first.

Section 2.18. — Nepotism prohibited. (3 L.P.R.A. § 143t)

No appointments to transitory or regular positions in a school shall be made of persons within the fourth grade of consanguinity or affinity to the director or members of the school board of said school.

Section 2.19. — School Board — Composition. (3 L.P.R.A. § 143u)

Each school shall have a school board. The four components of the school shall be represented therein in the manner provided by the regulations promulgated by the Secretary. The number of members of each school board shall depend on the classification of the school, but shall not be less than seven (7) nor more than fifteen (15) members. The representation of the teaching personnel shall always be in the majority.

The directors shall not preside over the school boards; they shall have voice and vote on its deliberations and, as the main executives of the school, shall enforce the agreements that said bodies adopt with regard to the matters under its jurisdiction.

Section 2.20. — School Board — Organization and operations. (3 L.P.R.A. § 143v)

The school boards shall adopt regulations for its government; shall elect its own officials; shall meet at least once a month in non-working hours; and when deemed convenient, may request the professional or technical counsel of the Department.

Section 2.21. — School Board — Functions. (3 L.P.R.A. § 143w)

The School Board shall have the following functions:

- (a) Identify and collaborate in the solution of community problems and develop programs of services addressed thereto.
- (b) Authorize the disbursement of school funds.
- (c) Evaluate the Director's reports regarding the administration of the school's budget.
- (d) See to the care and maintenance of the school grounds, installations and equipment.
- (e) Establish plans for the internal security of the school with the Director; [Provided, also,] That same shall prepare, develop and carry out a mock drill in the school community to safely address in a safe, orderly, prudent and reasonable manner any emergency situations that may arise during the first ten (10) days after the beginning of every school semester. Said exercise or action plan shall include the following: (1) immediate and effective measures to be taken in case of emergency, such as evacuation plans, safe areas into which the students shall be moved, communications with support agencies, parents and persons related to the school, among others; and (2) provisions for reducing or preventing damages to the students, teachers and other teaching and non-teaching personnel.
- (f) Receive and evaluate the proposed budget prepared by the Director for the school before remitting it to the Department.
- (g) Approve the regulations of the school.
- (h) Prepare a system with the Director to refer any cases of child abuse detected in the school to the Department of the Family or any other competent authority, and follow-up the same.
- (i) Advise the Director on any other matter related to the school.

The Council shall create working groups and request the specialized personnel required to execute its work from the Department. It shall also create a group constituted by representative members of the teaching personnel to:

- (a) Advise the Director in the drafting of the school's study plan and its program of activities.

(b) Evaluate changes in the curriculum drawn up by the Director or the teachers in view of the needs and interests of the students and the standards of the Puerto Rico Public School System.

(c) Collaborate with the Director in drafting the programs for students who have fallen behind academically, and students with high academic yield.

Section 2.22. — School Board — Protection of the members. (3 L.P.R.A. § 143x)

The members of the school boards shall not incur civil liability of a personal nature for their actions or omissions in their compliance with the obligations of their office, as defined in the law and the regulations that govern the Puerto Rico Public School System.

Nevertheless, no school board or a member thereof, shall claim immunity under this section for actions that intentionally injure the recognized rights of the members of the teaching and non-teaching personnel of the Department or students of the Puerto Rico Public School System.

Section 2.23. — School Board — Dissolution. (3 L.P.R.A. § 143y)

The Secretary shall order the dissolution of any School Board that remains inactive for three (3) months or more, or that fails to comply with the provisions of this Act or the regulations adopted thereunder. He/she shall also provide for the corresponding election of a new School Board within a term not to exceed thirty (30) working days, to be counted from the date of dissolution of the School Board.

Section 2.24. — Student Council. (3 L.P.R.A. § 143z)

The students of each school shall decide on the composition of its student council. The standards of procedure thereof shall be determined by its members pursuant to the general guidelines prepared by the Secretary.

Section 2.25. — Student Council — Function. (3 L.P.R.A. § 144)

The Student Council shall be [the] official representative of the student body of a school before the Department, the Director, the faculty, the school board and the community. As such it may:

- (a) Organize activities according to the norms and regulations in effect.
- (b) Elect a student representative to the school board.
- (c) Present the opinion of the student body on the academic offerings and the services of the school.
- (d) State their opinions and present ideas on matters of interest to the school.
- (e) Participate in the drafting of the disciplinary regulations of the school and help to implement it.

CHAPTER III. — THE STUDENTS. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER III]

Section 3.01. — The Student — *Raison d'etre* of the educational system. (3 L.P.R.A. § 144a)

The activities of the school shall be centered on the student: the point of departure and goal of the educational system. The disbursements of the school shall be validated by its relationship with the teaching staff; with student services; or with parent or community activities as provided by this Act. The Comptroller's Office and the auditors of the Department shall keep this provision in mind when auditing the disbursements of the schools.

Section 3.02. — Individual differences and school offerings. (3 L.P.R.A. § 144b)

The school shall organize its offerings based on the idea that each student is a person with individual needs, aspirations and aptitudes. Correspondingly, the school:

- (a) Shall provide services to students with disabilities as directed by Act No. 51 of June 6, 1996 [18 L.P.R.A. §§ 1351 et seq.], known as the "Integral Educational Services for Persons with Disabilities Act", and the applicable federal laws and regulations.
- (b) Shall implement remedial programs for students who have fallen behind academically, as well as for students at risk of dropping out of school.
- (c) Shall provide courses for students with high academic yield or special abilities.
- (d) Shall provide vocational guidance services to its enrollment.
- (e) Shall provide guidance services to its students to help them understand and manage the typical problems of their age group.

Section 3.03. — Pertinence of study programs. (3 L.P.R.A. § 144c)

The study programs of the school shall adjust to the needs and experiences of its students. The directors, teachers and school boards shall ensure that the courses imparted by the school:

- (a) Are pertinent to the social, cultural and geographical needs of its students.
- (b) Stimulate the imagination and awaken the curiosity of the students.
- (c) Provide the opportunity for students to develop the capacity to observe and reason.
- (d) Train students in the search for information through traditional and electronic media.
- (e) Promote a healthy physical development through requirement of participation in physical education courses.
- (f) Allow students to broaden their vocabulary and develop oral and written communication skills in Spanish as well as in English.
- (g) Provide information and orientation to the students on the sexual development of human beings; family relations; problems of adolescence; personal finances; and on any other topics that the school or the Secretary deem are pertinent.
- (h) Develop the student's learning skills.

Section 3.04. — Physical education. (3 L.P.R.A. § 144c-1)

Schools shall provide all students a minimum of three (3) weekly hours on physical education. All schools shall be guaranteed a physical education teacher. In the case of schools with a registration of over two hundred and fifty (250) students, additional teachers shall be appointed for every two hundred and fifty (250) students or fraction thereof. It is further Provided, That the integration of modern technology instruments shall be included to provide students information on physical education. Computers, communications, and audio-visual equipment shall be understood to be modern technology instruments.

Section 3.05. — Sex education. (3 L.P.R.A. § 144d)

The schools, with the advice of the Department, shall implement sexual education programs for the students. These will emphasize the physiological and emotional aspects of sexual relations, as well as the family responsibilities related thereto, and the risks entailed as a result of these relationships.

Section 3.06. — Activities. (3 L.P.R.A. § 144e)

The schools shall stimulate its students to participate in curricular and extra-curricular activities; promote projects they initiate; encourage them to organize to provide tutorships or render services to the school and the community; and collaborate with them in holding activities that answer to their interests.

Section 3.07. — Promotion of students. (3 L.P.R.A. § 144f)

The Secretary shall draft norms that apply to the entire Public Education System with regard to:

- (a) The study program corresponding to each grade and level of the System.
- (b) The level of skills or knowledge that the students should achieve on the conclusion of each stage of the educational process.
- (c) Ways of evaluating the students' progress.
- (d) Promotion of students from one grade or level to another.
- (e) Services that must be offered to students that have fallen behind academically or at risk of dropping out of school.

No general standards on promotion into grades will be implemented based on special examinations to be given to the students of the Public Education System, until the Secretary certifies that the Department has reliable tests that are capable of measuring the academic progress of students of varied backgrounds without the interference of non-academic factors that could influence the result of the tests. Lacking the certification of the Secretary, each school shall administer its examinations for promotion based on the directives issued by the Department.

Section 3.08. — School environment. (3 L.P.R.A. § 144g)

The Secretary shall promulgate student regulations for the Public Education System. The School Boards shall also adopt complementary regulations for their schools. These regulations shall specify the rights and obligations of the students, the standards of behavior in the schools and shall establish the corresponding sanctions for their infraction. The regulations that are promulgated by the Secretary, as well as those adopted by the school boards, shall recognize the right of the students to their personal safety, free from harassment and bullying; to study in a wholesome environment; to privacy and personal dignity; to promote the development of student organizations; to a fair evaluation of their academic work; to a careful custody of the documents related to their academic history and student life; to select their trade or profession freely; to receive vocational guidance services or other specialized services; to an education that shall allow them to continue their higher education or provide access to the job market in and outside of Puerto Rico; and to organize and participate in the activities of their schools.

The regulations shall also recognize the students' obligation to attend school; to comply with their school assignments; to be honest; to help their fellow students; to respect the physical and moral integrity of their teachers and fellow students; to render services to their school and the community in case of an emergency; and to respect the other students right to study.

Section 3.08-A. — School environment — Public policy for the prevention of harassment and bullying of students. (3 L.P.R.A. § 144g-1)

The Secretary shall promulgate within the Students Regulations for the Public Education System an energetic public policy on the prohibition and prevention of acts of harassment and bullying of students within the school building or grounds or areas surrounding them, in activities sponsored by schools and in school buses.

The Student Regulations for the Public Education System shall include within its text, the following definition of the act of harassing and bullying. This act shall be defined as any action carried out intentionally, by means of a gesture, whether verbal, written or physical, that has the effect of frightening students and that interferes with their education, their academic opportunities and their performance in the classroom.

For the purposes of this chapter, in general terms said act must be continuous in order for it to be considered harassment and bullying. However, a single event could be considered harassment and bullying due to the severity of the same, as provided by the Secretary through regulation and adopted by the School Boards, upon consultation with the parents of students associations.

All the above stated shall be considered within the perspective of what a reasonable person would deem to be a noxious or risky situation for students or their property. With respect to the conduct of the bully, it shall be examined within the abovementioned perspective. The pertinent authorities shall take into consideration the severity, persistence or continuity of the actions within this conceptual framework as well as the consequences thereof upon creating an environment of harassment and bullying for the affected student or students.

Likewise, within the abovementioned Regulation the following shall be established: the prohibition of harassment and bullying acts; what shall constitute the act or conduct of harassment and bullying; the methods for reporting incidents of harassment or bullying; the process to be established to process these cases; and the consequences for the students who violate these norms.

The Secretary, through the authorized personnel, shall remit a copy of these regulations and of the code of conduct for students to all students of the Public Education System. The Secretary is authorized to make these documents available to all private schools in Puerto Rico that wish to establish said public policy within their educational institution.

The School Boards, in coordination with the student's parent associations shall adopt complementary regulations to implement the public policy on harassment and bullying of students established by the Secretary in their schools.

Section 3.08-B. — School environment — Establishment of a code of conduct for students. (3 L.P.R.A. § 144g-2)

The Secretary shall adopt, within the Student Regulations for the Public Education System, a code of conduct for its students, which shall be in harmony with the norms, rules and public policy established in Section 3.08-A of this Act.

Section 3.08-C. — School environment — Presentation of reports on harassment and bullying incidents. (3 L.P.R.A. § 144g-3)

Pursuant to the procedures provided and adopted by the Secretary in coordination with the School Boards in the Student Regulations for the Public Education System, all students, personnel or volunteers in public schools who submit a report in good faith containing information regarding an incident involving the harassment and bullying of a student by a bully, shall be protected against any action for damages or retaliation that should arise as consequence of reporting said incident.

Section 3.08-D. — School environment — Programs, activities, training workshops, awareness and counseling regarding harassment and bullying among students. (3 L.P.R.A. § 144g-4)

The Secretary, in coordination with the School Directors and the School Boards, shall provide the public school employees and students the opportunity to participate in programs, activities and training workshops designed and developed to be educated and acquire the tools for the public policy established in Section 3.08-A of this Act on harassment and bullying among students or the school personnel.

The social workers and school counselors shall likewise be responsible for orienting students on the problem of harassment and bullying and shall provide counseling to victims of the conduct as well as to the bullies.

Section 3.08-E. — School environment — Annual remittance of incident report to the Legislature. (3 L.P.R.A. § 144g-5)

The Secretary shall remit an annual report to the Legislature on incidents involving harassment or bullying, if any, within the public education system and the actions taken with respect to the same not later than July 1 of each year.

Section 3.09. — Students records. (3 L.P.R.A. § 144h)

The Secretary shall establish by regulations, the rules corresponding to the maintenance and custody of the records of the academic history and student life of the students of the system. These documents shall be confidential, and only the student, the father, mother, or legal guardian of the student, the officials authorized by the Secretary, and persons authorized by court order, shall have access to them.

Section 3.10. — Disciplinary measures. (3 L.P.R.A. § 144i)

Students shall observe the standards of behavior that are promulgated to ensure the orderly performance of the school. The violation of these standards will bring about the imposition of sanctions that will vary from a slight admonishment, to expelling the student. The sanction of suspension and expelling the student shall not be imposed without undergoing due process of law, except in those cases indicated in Section 3.11 of this Act. Corporal punishment is forbidden.

Section 3.11. — Urgent disciplinary measures. (3 L.P.R.A. § 144i)

The Directors may summarily suspend students from classes who have been charged with a major Class II or III offense under Act No. 88 of July 9, 1986 [34 L.P.R.A. secs. 2201 et seq.], known as the "Puerto Rico Minors' Act". They may also do it when there are facts that justify prosecuting the student as an adult before a court, or when the director has grounds to believe that the presence of the student in the classroom is a threat to the security of the school community.

Before putting any decision into effect under this section, the directors shall proceed to consult the Secretary through the expeditious means provided [to] him/her by regulations. No summary suspension shall be extended for more than five (5) school days; the disciplinary hearing on the charges must be held within this term. Rules shall be established to safeguard the confidentiality of the procedure as required by the Puerto Rico Minors' Act.

Section 3.12. — Students removed from home of parents, tutors, foster home. (3 L.P.R.A. § 144k)

Directors shall make the necessary arrangements to transfer students under the custody of the Department of the Family to the pertinent school without delay. Under no circumstance may directors refuse to admit these minors into their schools.

Section 3.13. — Return of books, computers, and other school material or equipment. (3 L.P.R.A. § 144l)

Parents, tutors or custodians of students shall be responsible for the good condition and return by their children to the school, any books, materials, equipment or computers loaned for them to study upon conclusion of the school year or at the moment the school demands their return. Upon failure to return said supplies, the Secretary shall require that the parents, tutors or custodians of the student present payment, compensation or redress for expenses reasonably incurred by the Department to repair, restore or replace said supplies pursuant to procedures established by law and regulations in effect and the obligation contracted by the former by signing the pertinent document at the beginning of the school year.

Section 3.14. — Bearing of Arms in School. (3 L.P.R.A. § 144m)

Any student introducing, distributing, giving, selling or bearing any kind of firearm at school or within school surroundings, shall be suspended by the Secretary for a period not under one year considering the circumstances in each separate case and pursuant to the procedure established by regulation. For the purposes of this Section, "any kind of [fire]arm" includes all weapons banned under Act No. 17 of January 19, 1951, as amended [25 L.P.R.A. §§ 455--460j], as amended, known as the "Puerto Rico Weapons Law", or any other succeeding law, and U.S. Public Law No. 90-351 of June 19, 1968, as amended, 82 Stat. 226. "School surroundings" are understood to be a one-hundred (100) radial meter distance from school grounds as these are delimited by a fence or any other boundary marking.

The Department shall provide, in coordination with the agencies concerned, alternate education services to the student for the term of his/her suspension, and upon conclusion thereof, shall place the student at the corresponding grade and level.

CHAPTER IV. — TEACHERS. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER IV]

Section 4.01. — Teachers Function. (3 L.P.R.A. § 144n)

Teachers are the key resource of the educational process. Their primary function is to help students discover and hone their capabilities and learn attitudes and ways to conduct themselves which will allow them to function properly as members of the community.

Section 4.02. — Teaching autonomy. (3 L.P.R.A. § 144o)

The Secretary, the school directors and the school councils shall validate the teaching autonomy of teachers, which shall include the freedom to:

- (a) Make the changes they deem pertinent in order to adapt the topics of the course to the socio-cultural and geographical profile of their students.
- (b) Adopt the teaching method that to their professional judgment will better arouse the interest and curiosity of their students about the topics being studied.

(c) Give personalized attention to disabled students, as well as to outstanding achievers and students with special skills.

(d) Organize students into groups for special studies or projects related with their courses.

The teaching autonomy of teachers shall always be exercised in reference to topics comprised within the courses they teach, and not to topics or subjects incidental thereto. Regulations shall recognize the authority of teachers to maintain order in their classrooms. The teaching autonomy recognized herein shall not relieve teachers from covering their courses as these are established in the master curriculum of the education system.

Section 4.03. — Incentives for excellence. (3 L.P.R.A. § 144p)

The Secretary shall establish through regulations an incentive system so as to retain the most qualified teachers with the highest performance in the classrooms. These incentives may be awards, special acknowledgments, sabbatical leave, cultural travel, bonuses and other distinctions bestowed to highlight the value of teachers and the teaching endeavors.

Section 4.04. — Education of Teachers. (3 L.P.R.A. § 144q)

The Secretary shall take the measures with the universities established in Puerto Rico so that they conform the courses they provide to the needs of the public education system in that which concerns:

- (a) The training of teachers in technical areas of their profession as well as in the disciplines of their specialized field.
- (b) Proper management of the most advanced teaching technology.
- (c) Training of school administration staff.
- (d) Training of professional staff involved in teaching-supportive tasks.
- (e) The establishment of continuing education and training programs for teachers.

Section 4.05. — Teaching candidates — Exams. (3 L.P.R.A. § 144r)

Candidates to hold any position established under Act No. 94 of June 21, 1955 [18 L.P.R.A. §§ 260 et seq.], regarding teacher certification, and the regulations adopted thereunder, shall pass an examination to qualify to be teachers. The Secretary shall promulgate the standards to govern the preparation and proctoring of these examinations. The scores obtained therein shall be taken into account in assigning turns in the eligible candidate roster.

Section 4.06. — Admission into the teaching profession. (3 L.P.R.A. § 144s)

Schools shall establish teaching admission programs for new teachers or for teachers who have not practiced the profession for three (3) years preceding their appointment. The Secretary shall establish the standards concerning the operation of these programs.

Section 4.07. — Appointment of teachers to administrative office. (3 L.P.R.A. § 144t)

The Secretary may appoint teachers to administrative office when in conformance to Act No. 94 of June 21, 1955 [18 L.P.R.A. §§ 260 et seq.], regarding teacher certification, Act No. 312 of May 15, 1938 [18 L.P.R.A. §§ 214 et seq.], regarding teacher tenure, and the regulations adopted by virtue of these acts. Teachers thus appointed shall be subject to evaluations as directed by the regulations promulgated by the Secretary.

Section 4.08. — Continuing education. (3 L.P.R.A. § 144u)

The Secretary shall establish continuing education programs for the teaching and non-teaching personnel of the Department.

In the case of all members of the School Councils, who are appointed after the approval of this act, it shall be a prior requirement to have taken and [passed] a course on public financial operations to be designed and administered by the Office of the Comptroller of Puerto Rico. Provided, That the Office of the Comptroller and the Secretary shall establish the necessary administrative norms to comply with said requirement and, in addition, shall offer said course to the present members of the School Councils. The course prepared by the Comptroller of Puerto Rico shall be offered in the most effective and efficient manner possible according to what the Secretary of Education and the Office of the Comptroller agree. Among other alternatives to be considered, without their being understood as a limitation, the course may be offered in the teaching institution in coordination with the School Director or in groups by the municipality, in coordination with the Superintendent of Schools.

Section 4.09. — Evaluation of teachers. (3 L.P.R.A. § 144v)

At the beginning of the school year, school directors, with the advice of school councils, shall organize evaluation committees constituted in part by teachers with tenure and vast experience. The committees shall evaluate the work of their school teaching personnel pursuant to the procedures, guidelines and objective criteria set forth by [the] Secretary, and they shall present recommendations to school directors and councils concerning professional training or continuing education programs, for the betterment of teachers in their schools.

Committee evaluations shall also be used for purposes of awarding tenure to teachers, promotions in teacher ranking, and bestow awards and acknowledgments to outstanding teachers.

Section 4.10. — Teacher participation in school procedures. (3 L.P.R.A. § 144w)

Teachers shall participate in directing their schools through school councils and faculty meetings, or through other bodies as created to fulfill the purposes of this Act.

The Secretary, the directors and the school councils shall articulate the standards to systematize and encourage the active involvement of teachers in the fulfillment of the school's educational endeavor.

Section 4.11. — Volunteer citizens. (3 L.P.R.A. § 144x)

School directors shall keep, with the approval of school councils, a register of volunteer citizens willing to render non-teaching services in schools, as well as to exercise teaching functions during extended hours or as substitutes when teachers are absent.

Volunteers shall meet certain education and experience requirements in order to exercise the functions delegated [to] them; they shall not receive compensation for their work, except for the per diem that the Secretary may grant them in consideration of their labor.

In exercising their functions, volunteers shall be covered by State Insurance Fund health and hospitalization plans and protected under Act No. 104 of June 29, 1955 [32 L.P.R.A. §§ 3077 et seq.], regarding claims and actions against the Commonwealth of Puerto Rico.

Section 4.12. — Exemption from attachment and execution. (3 L.P.R.A. § 144y)

The portion of teaching personnel salaries of the Puerto Rico Public Education System corresponding to the basic salary paid when admitted into the teaching profession, shall be exempt from attachment and execution.

Section 4.13. — Disciplinary sanctions.(3 L.P.R.A. § 144z)

The Secretary may impose disciplinary sanctions on members of the teaching profession who infringe the laws or the regulations governing the Puerto Rico Public Education System. Sanctions may range from reprimands for slight infractions to destitution and cancellation of certificate for grave or severe infractions. The Secretary may not impose disciplinary sanctions on teaching or non-teaching personnel without due process of law.

Section 4.14. — Right to participate in political activities. (3 L.P.R.A. § 145)

Members of the teaching personnel of the Public Education System shall have the right to:

- (a) Be a part of the directive bodies of political parties and organizations.
- (b) Participate in political campaigns and activities.
- (c) Appear as candidates to elective office or to confidential office by appointment.
- (d) Promote candidacies in any electoral process.

Section 4.15. — Activities prohibited in schools and Department facilities. (3 L.P.R.A. § 145a)

All Department officials and employees, regardless of their office or classification and the kind of appointment they may hold, shall abstain from conducting the following acts within schools and within facilities and grounds under the jurisdiction of the Department during their respective working hours or the working hours of the Public Education System:

- (a) Exhibiting political party or organization insignias, logos or emblems.
- (b) Forming groups or organizing activities to support or reject political parties or organizations, or candidates or persons participating in an electoral process.

(c) Distributing and diffusing propaganda related with a political process or an electoral contest.

Infringement of the provisions of this section shall be deemed to be professional misconduct and constitute enough cause for the corresponding disciplinary actions as provided by this Act or Act No. 115 of June 30, 1965, as amended [18 L.P.R.A. §§ 274 et seq.], or any other applicable laws or regulations.

Section 4.16. — Special leave for candidates. (3 L.P.R.A. § 145b)

Members of the Public Education System teaching personnel shall be released from their obligations when nominated by a political party as candidates to the office of Governor, Resident Commissioner, Senator, House Representative or Mayor, if certified by the Commonwealth Elections Commission.

Relief from duty shall be effective on August 1st of the election year and shall be extended to the Monday that follows the day set for general election. During said period, the teacher thus relieved from duty shall enjoy a special leave with pay, which shall not be chargeable to days accrued by the teacher in any other leave. After the election, teachers enjoying the special leave shall be entitled to ask for leave without pay for the rest of the semester.

Should the teachers on special leave not be elected to the office to which they were nominated, they may return to their posts with the same rights and prerogatives they had at the time they were relieved from duty. Should their posts be occupied or another post of like category not be available in their municipality, the Secretary shall extend the special leave with pay until the beginning of the second school semester.

The provisions of this Section shall not apply to confidential teaching personnel or to Department officials or employees exercising non-teaching functions.

Section 4.17. — Labor Unions. (3 L.P.R.A. § 145c)

The participation of teachers in labor unions shall be governed by the agreements reached in collective bargaining under Act No. 45 of February 25, 1998 [3 L.P.R.A. §§ 1451 et seq.], known as "Puerto Rico Public Service Labor Relation Act," and its regulations.

CHAPTER V. — THE PUBLIC EDUCATION SYSTEM. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER V]

Section 5.01. — Composition. (3 L.P.R.A. § 145d)

Schools shall be a conglomerate of autonomous units articulated under public policy and common purpose principles. These shall be part of the Puerto Rico Public Education System this being its main constituent together with the Secretary of Education, the education facilitator regional and district offices, and the dependencies of the Department providing school lunchroom and printing services, or other supportive services to the system.

Section 5.02. — Secretary — How functions are to be exercised. (3 L.P.R.A. § 145e)

The Secretary shall steer the educational efforts of the System by regulatory standards, public policy and planning directives, auditing, scrutiny, and evaluation of the scholastic and administrative process of the schools. The Secretary shall exercise the executive powers germane to his/her office in the cases foreseen in this Act or when he/she believes it to be necessary to safeguard the harmony and the interests of the Puerto Rico Public Education System.

Section 5.03. — Secretary — Responsibility for schools. (3 L.P.R.A. § 145f)

As to the schools which constitute the Public Education System, the Secretary shall be directly responsible for:

- (a) School facility planning.
- (b) The opening and the temporary or permanent closedown of school facilities.
- (c) The structuring of the System in grades and levels or by any other design.
- (d) The fiscal planning for the System and the budget allotment for each school.
- (e) The development of reliable scholastic aptitude tests that will allow an assessment of the performance of the Education System as a group and each school in particular.
- (f) The fiscal auditing and the examination of school staff procedures.
- (g) The evaluation of the performance of school directors.
- (h) The evaluation, auditing or scrutiny of any other activity that the schools may develop within the scope of autonomy this Act recognize.

Section 5.04. — Secretary — Delegation of functions. (3 L.P.R.A. § 145g)

The Secretary may delegate the functions listed in the preceding Section to the Under Secretary of Academic Affairs and the Under Secretary of Administrative Affairs of the Department. These, however, may not be delegated to or carried out by education facilitator regional or district offices, or officials or employees in charge of these tasks.

Section 5.05. — System organization in grades and levels. (3 L.P.R.A. § 145h)

The Public Education System shall be organized under the principle that education is a continuing process which this Act divide, for administrative purposes, into the levels of preschool, elementary education, secondary education, and postsecondary education.

The Secretary shall provide, through regulations, for matters concerning the grades corresponding to each level, and see that the grade and level design does not hinder the System from assaying other forms of school organization that better conform to the continuing nature of the education process.

Section 5.06. — Language for teaching. (3 L.P.R.A. § 145i)

The teaching process shall be conducted in Spanish and/or English in the System's schools.

Section 5.07. — Interconnection Between the Schools and the Work Settings. (3 L.P.R.A. § 145j)

The Secretary shall establish the proper interconnection between the learning experience in school and the work place in order to provide Puerto Rico with human resources capable to perform the tasks required by the productive processes within a global economy. For this purpose, it shall adopt the six key elements of —The Route to the 21st Century Learning for Tomorrow’s Professional and shall foster a school culture geared toward information and communication technologies. The elements to be incorporated in —The Route to the 21st Century Learning for Tomorrow’s Professional are:

1. Core Subjects.—

The core subjects shall be those determined by the Department of Education of Puerto Rico and those deemed as such by law or regulations.

2. Learning Skills.—

Each student shall be entitled to receive an education that provides him/her with the cognitive skills aimed at progress, hereby defined as the combination of information, communication, problem solving, and interpersonal relations.

3. Content of Tomorrow’s Professional.—

The student shall receive this additional technological knowledge, which is essential for his/her effective development within a personal, community, and work environment.

4. Context of Tomorrow’s Professional.—

The teacher will educate the students through the use of experiences inside and outside the school with actual real world examples and by practicing what was taught. Thus, the academic content for the students is built in order for them to know the connection between their studies and the world they live in.

5. Skills of Tomorrow’s Professional.—

The educational plan shall be the full integration of the core subjects, the learning skills and tools, and the content of tomorrow’s professional.

6. Knowledge Tools for Tomorrow’s Professional.—

The student shall know, learn, and master information and communication technologies, such as computers, networking, and other digital and non-digital technologies, such as audio, videos, and other media tools.

In order to gear school culture toward information and communication technologies, when a student reaches the eighth grade he/she must be capable of using the tools that will make him/her a better professional in order to:

1. Manage, evaluate, and create information in a variety of documents, media, and programs.
2. Understand, manage, and create effective communication in a variety of forms and contexts.
3. Exercise analytical reasoning and make complex decisions.
4. Elaborate, analyze, and solve complex problems.
5. Develop and communicate new ideas and respect the difference of opinions.
6. Demonstrate the ability to work with others and be a team leader.
7. Be responsible for his/her own learning with parents and teachers.

8. Exercise individual responsibility and adaptation in personal, educational and community contexts.

Section 5.08. — Educational Research and Innovations Center. (3 L.P.R.A. § 145k)

The Secretary shall establish an Educational Research and Innovations Center to pursue the following goals:

- (a) Research and collect information on the problems facing the field of education in Puerto Rico.
- (b) Conduct experiments with new ways in which to organize the teaching and exercise the learning processes.
- (c) Draft and [try out] new curriculums for the courses offered.
- (d) Design programs to take advantage of the talent, capability and experience of the teachers and students in activities that complement those that are developed in the classroom.
- (e) Gather pedagogical research materials and innovations produced in and outside of Puerto Rico.
- (f) Evaluate research projects proposed by the teachers of the Public Education System and defray the corresponding cost of those approved by the Secretary.
- (g) Establish a network of collaborative schools to participate in the research and experimental projects of the Center.
- (h) Promote the creation of consortiums with universities to conduct research projects.
- (i) Submit annual reports to the Governor of Puerto Rico and the Legislature on the achievements and operations of the Center.

Section 5.09. — Educational Research and Innovations Center — Board of Directors. (3 L.P.R.A. § 145l)

The Center shall be directed by a Director appointed by the Secretary and be attached to the Office of the latter.

Section 5.10. — Educational Research and Innovations Center — Regulations. (3 L.P.R.A. § 145m)

The Secretary shall provide for all matters pertaining to the organization and operation of the Center through regulations.

Section 5.11. — The academic year. (3 L.P.R.A. § 145n)

The academic year shall consist of two (2) semesters divided by the Christmas holidays. The Secretary shall draft the work plan for the school year. Said plan shall set aside two (2) successive days per semester for holding meetings with the parents of the students and professional activities for the teachers.

Section 5.12. — System cohesiveness. (3 L.P.R.A. § 145o)

The Secretary shall draft the standards to be applied to all schools so as to provide cohesiveness to the educational endeavor of the Public Education System. Said standards shall refer to matters such as:

- (a) Study plans for the various grades and levels.
- (b) Tests to measure the progress of the students.
- (c) Specific performance goals for the various grades and levels of the System.
- (d) Salary schedules for the teaching and the support personnel.
- (e) Criteria, guidelines and procedures to evaluate the performance of the teachers, the school directors, the facilitators and all other employees of the System.
- (f) Means of evaluating the operations of the schools.

Section 5.13. — Responsibilities of the officials and employees of the Department.

The officials and employees of the Department shall answer to the Secretary for their negligent or culpable actions as well as for the negligent or culpable actions of those under their supervision. Non-compliance with supervisory responsibilities shall be sufficient grounds to impose sanctions pursuant to the provisions of Act No. 115 of June 30, 1965, as amended [18 L.P.R.A. §§ 274 et seq.], and other applicable laws and regulations.

Section 5.14. — Personnel system of the Department. (3 L.P.R.A. § 145q)

The Department shall have confidential and career employees. The confidential employees shall be those who are substantially involved with the establishment and implementation of the public policy of the Department or who advise or render services directly to the Secretary. All other employees shall be career employees. Personnel recruitment shall be governed by the regulations established for that purpose.

The Department and the schools shall administer their own personnel systems without being subject to Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act". Furthermore, the Department shall adopt regulations regarding those areas that essentially concern the merit principle and other areas involving the administration of personnel contained in the laws relative to public service matters. The Secretary shall allow the participation of the teaching and non-teaching personnel in the process of outlining their personnel systems.

The determinations on those matters pertinent to the personnel under the merit principle shall be subject to review by the Board of Appeals of the Educational System, created by virtue of Act No. 115 of June 30, 1965, as amended [18 L.P.R.A. §§ 274 et seq.].

The following items are essential to the merit principle:

- (a) Job classification.
- (b) Personnel recruitment and selection.
- (c) Promotions, transfers and demotions.
- (d) Training programs.
- (e) Employee retention.

The teaching personnel of the System shall be appointed pursuant to the provisions of subsection (b) of Section 2.04 of this Act.

CHAPTER VI. — THE SECRETARY OF EDUCATION SYSTEM. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER VI]

Section 6.01. — Appointment. (3 L.P.R.A. § 145r)

The Secretary shall be appointed by the Governor of Puerto Rico with the advice and consent of the Senate. The Secretary shall be a citizen of the United States.

Section 6.02. — Duties of the Secretary. (3 L.P.R.A. § 145s)

The Secretary shall be responsible for:

- (a) Implementing the public policy adopted by the Legislature and the Governor so as to fulfill the purpose set forth by the Constitution of Puerto Rico and this Act for the Public Education System.
- (b) Organizing, planning, directing, supervising and evaluating the academic and administrative activities of the Department.
- (c) Ensuring that the community schools, operating autonomously, are interconnected to a coherent educational system, guided by a common purpose.
- (d) Representing the Department in official government activities and before the community.

Section 6.03. — Duties and powers of the Secretary in academic area. (3 L.P.R.A. § 145t)

The Secretary, as academic director of the Puerto Rico Public Education System, shall:

- (a) Adopt a five (5) year Integral Development Plan for the Puerto Rico Public Education System in order to set forth the short and mid term objectives of the Department. An institutional working plan, to be revised annually, shall be designed to achieve said objectives.
- (b) Organize the study programs of the Public Education System pursuant to the pattern of grades and levels and taking into consideration the provisions of Section 5.05 of this Act.
- (c) Establish a basic curriculum for the Public Education System that is flexible enough for the schools to adapt it to their needs. It shall include physical education courses as a curriculum requirement.
- (d) Prescribe the corresponding plan of studies for each grade and level of the System.
- (e) Establish a counseling program on criminality, the facts that constitute grounds for crime, the penalties they entail, and the regulations that are necessary to implement said program. In addition, the program may include the visit, of both high schools students of the public education system schools as well as those of private schools authorized by the Department of Education to operate as teaching centers, to the different correctional institutions of the country. The [visit] program shall be optional and always in coordination with the Secretary of the Department of Correction and Rehabilitation. The counseling program shall be part of

the formal academic curriculum and shall be an indispensable requirement for senior students to obtain their high school diploma.

(f) Establish a program at elementary, intermediate and high school level on moral and government ethics. The Secretary shall adopt the regulations that are necessary to implement said program and may receive the cooperation and advice of the Office of Government Ethics, the Office of the Comptroller of Puerto Rico, the Secretary of Justice of Puerto Rico and of those persons or entities interested in collaborating with the implementation of the plan for the teaching of moral and government ethics. This program shall be implemented in all schools of the public education system as well as in private schools authorized by the Department of Education to operate as educational centers. In agreement with subsections (b), (c) and (d) of this section, said program shall be part of the formal academic curriculum and shall be an essential requirement for senior students to obtain their high school diploma.

(g) Ensure that students with disabilities receive the services provided by Act No. 51 of June 7, 1996 [18 L.P.R.A. §§ 1351 et seq.], known as the "Integral Educational Services for Persons with Disabilities Act" and its regulations, as well as the applicable federal laws and regulations.

(h) Establish the performance levels required for promotion to a next grade and level within the System.

(i) Establish, according to the general design prescribed in Section 5.11 of this Act, the length of the school year and day; the minimum annual and daily number of teaching hours; the sectional division of the school year; and the periods of academic recess, to allow the schools to increase the teaching hours and days according to their needs.

(j) Adopt the measures needed to ensure the best use of the teaching time.

(k) Establish the corresponding procedure for students to be duly oriented on the significance and origin of the name of the school they attend. Furthermore, it is hereby required that the Secretary with the collaboration of the Structures and Public Highways Naming Commission to include the information related to the name of schools in Puerto Rico in the web page of the Department of Education so that both the students and general community may access the same and obtain information on the significance and origin of the name of the school concerned.

(l) Approve the books, texts, equipment and materials required for teaching.

(m) Foster the academic excellence of the teachers and students by establishing special awards and incentives.

(n) Organize incentive programs to enhance the professional advancement of the teachers and the teaching support personnel.

(o) Establish regulations for the teaching personnel of the System.

(p) Establish student regulations pursuant to the provisions of Section 3.07 of this Act.

(q) Establish objective procedures to assess the progress of the students, the performance of the teachers, the endeavors of the school directors of the System, as well as to compare performance among the schools. Therefore, he/she shall adopt an assessment system and integrate the current technologies of tomorrow's professional to the development program. The Secretary shall reform the standards and the curriculum in accordance with those technologies.

With respect to assessment, the Department of Education shall develop a balanced and standard general assessment system in order to measure the academic performance of our

students. Among the means of assessment in the classroom, the evaluation of each student’s portfolio should be considered as an alternative, furthermore, the administration of standardized tests over the Internet should also be considered.

Furthermore, in order to develop tomorrow’s professional the Department of Education of Puerto Rico shall ensure that information and communication technologies are integrated into the professional development program. This integration is essential, since the instructor must be trained so as to be able to teach the content of tomorrow’s professional.

In order to achieve uniformity, the Department of Education shall update its standards and curriculum so as to be able to effectively integrate the current and new information and communication technologies.

(r) Shall adopt rules related to the nature of the nonacademic activities that schools may sponsor; Provided, That among such roles, he/she shall approve those that specifically prohibit the sponsoring or development of activities by the schools, their members, or the community, that expose the students who are minors to any activity that is harmful to their physical or mental health.

(s) Establish regulations for the composition and operation of the School Council pursuant to the provisions of Sections 2.19, 2.20, 2.21, 2.22 and 2.23 of this Act.

(t) Provide resources to defray the cost of advanced study programs for high school students with high academic or vocational potential, as well as for those students at any academic level who show outstanding abilities.

(u) Designate those schools in the System to be regarded as exemplary and experimental and create special schools and programs to attend to the specific needs of particular groups of students.

(v) Establish through regulations a temporary administration system for those school[s] that have lost their certificate of recognition.

(w) Develop a two (2) year plan, assigning the necessary funds, to establish physical education courses in all the schools of the System.

(x) Take steps to obtain resources from the government of the United States and from public or private organizations so as to develop projects to enhance the educational endeavor of the Puerto Rico Public Education System.

(y) Coordinate with the Institute of Puerto Rican Culture and the municipalities of the Commonwealth of Puerto Rico, to offer library and mobile library or "Bibliobus" services throughout every town on the island and, to that effect, approve the needed rules and regulations jointly with the Board of Directors of the Institute of Puerto Rican Culture.

(z) Provide, to students, as well as to teaching and nonteaching personnel in the System, ongoing training regarding the use and management of computers and electronic technology, in addition to a brief initial compulsory orientation on the responsible and ethical use of computers and their software, whose approval [sic] shall be required as a prior condition to the granting of access to the equipment.

(aa) The Secretary shall redirect the curriculum of all public schools in order to include in the course of History of Puerto Rico, the teaching of the history of the same municipality where each public school is located.

(bb) Establish, in coordination with the Office of the Women's Advocate, a teaching curriculum that is directed toward promoting gender equality and preventing domestic violence. He/she shall also have the duty to implement this curriculum through the regular

academic offerings, or integrating it into academic programs and other educational modalities.

Section 6.04. — Administrative duties and obligations. (3 L.P.R.A. § 145u)

In his/her duty as Administrative Director of the Puerto Rico Public Education System, the Secretary shall:

- (a) Adopt the formula to determine the budget of the schools in the Public Education System. Said formula shall consider the level of the courses offered in the schools; their enrollment; the nature of their programs; the seniority of the faculty; the state of their facilities; and any other condition that may reflect upon the operating costs of the schools.
- (b) Design and establish auditing systems to regularly verify the legality of the disbursements of the schools.
- (c) Establish the personnel administration standards for the schools as part of the Personnel Regulations of the Department and supervise their compliance.
- (d) Establish the purchasing and supplies standards for the schools as part of the Purchasing and Supplies Regulations of the Department.
- (e) Establish school management programs to train the directing and administrative personnel of the schools in matters pertaining to budget preparation and management, personnel administration, fiscal audits and any other administrative area deemed essential for the proper administration of the Public Education System.
- (f) Implement a process to handle complaints and appeals to solve the claims of the teaching and non-teaching personnel due to actions or omissions of school officials.
- (g) Establish school discipline regulations in order to ensure the uninterrupted operations of the System. Said regulations shall establish behavioral standards for the teaching and administrative personnel of the Department, the students and the school visitors.
- (h) Shall establish a strategic plan for crisis management in coordination with the Puerto Rico Police, the Municipal Police, the Puerto Rico Civil Defense, the Puerto Rico Fire Department, the Department of Health, and any other pertinent agency before violent incidents or situations may result in the same, within the school system's population.
- (i) Adopt an orderly transition procedure applicable to the position of School Director through which its occupant, before ceasing his/her functions or changing position due to promotion, change or any other administrative mechanism, shall be compelled to share the information on administrative and fiscal affairs acquired in the exercise of his/her functions with the incoming School Director or with any other Department official especially designated for it so that the latter may later orient the incoming School Director. This procedure shall require, among other things, the preparation of a written report and shall specify the minimum topics or issues that the same shall contain.
- (j) Manage a personnel system based on the merit principle for the teaching and non-teaching personnel of the Department, not subject to the provisions of Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act"; appoint the personnel of the Department pursuant to this Act and all other applicable laws and adopt regulations to cover the essential aspects of the merits principle subject to the provisions of Act No. 170 of August 12, 1988, as amended [3 L.P.R.A. §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".

- (k) Establish a special register for preschool to third grade teachers, equal to the registers for special program teachers and teachers of other levels of the Public Education System pursuant to Act No. 164 of June 23, 1974 [3 L.P.R.A. §§ 260 et seq.], regarding teacher certification, and the regulations adopted pursuant to the latter.
- (l) Appoint the personnel of the Department, except for those staff members appointed by the school directors according to Section 6.06 of this Act.
- (m) Adopt purchasing and supplies regulations for the Department not subject to the pertinent provisions of Act No. 164 of June 23, 1974 [3 L.P.R.A. §§ 931 et seq.], known as the "General Services Administration Act".
- (n) Draft and manage the Budget of the Department, as well as the external funds appropriated to the latter.
- (o) Establish, through regulations, an accounting and disbursements system for the Department in harmony with the regulations established for that purpose in conjunction with the Department of the Treasury.
- (p) Approve projects and construction plans for school facilities and other facilities of the System and execute contracts with public or private entities for the construction projects or for improvements to those.
- (q) Execute contracts for the construction and reconditioning of school facilities and other buildings of the Department.
- (r) Authorize the temporary and free use of school facilities for educational, recreational, civic and cultural activities.
- (s) May lease school facilities to private entities to be used outside of the regular school hours or during vacation time to hold activities or render services compatible with the educational activities and the public policy established in this Act.
- (t) Establish, through regulations, the financial conditions, guarantees and terms of the leases for school facilities.
- (u) Enter into agreements and contracts with agencies or instrumentalities of the Government of Puerto Rico or its municipalities, as well as with agencies and instrumentalities of the federal government or the state and local governments of the United States or with private persons or entities, in order to implement this Act and achieve its purposes.
- (v) Contract school transportation services for terms not greater than three (3) years, its effectiveness subject to the availability of funds and to the terms of a public liability policy defrayed by the contractor.
- (w) Accept donations in the nature of goods, services or cash from local, Commonwealth or federal government bodies as well as from private persons or institution, not subject to the provisions of Act No. 57 of June 19, 1958, as amended [3 L.P.R.A. §§ 1101 et seq.], provided said donations are neither subject to conditions affecting the operations of the Public Education System. When said donations are conditioned they shall be subject to the provisions of Act No. 57 of June 19, 1958, as amended.
- (x) Take oaths and sworn statements pertaining to matters related with this Act or the regulations adopted pursuant to the same.
- (y) Submit an annual report to the Governor and to the Legislature on the achievements of the Department.
- (z) Adopt and create rules concerning projects and proposals by municipalities, other government agencies, the private sector, and communities that guarantee the welfare,

development and safety of the school community. For such purposes he/she can enter agreements, contracts and covenants to be voluntarily implemented in schools. Under no circumstances shall public money be used to sponsor private schools to the detriment of public schools.

Section 6.05. — Delegation of duties to subordinate officials. (3 L.P.R.A. § 145v)

The Secretary may delegate the powers conferred [on] him/her by this Act to subordinate officials, except those that concern the cancellation of school charters and the approval, revision and repeal of the standards and regulations that govern the Public Education System.

Section 6.06. — Delegation of duties to school directors. (3 L.P.R.A. § 145w)

In the charter issued for each school, the Secretary shall establish the terms and conditions under which the school directors shall exercise the duties and powers granted to them by this Act to allow them to make purchases, manage the budgets and appoint the teaching personnel in the respective schools. The Secretary may revoke said duties and powers, wholly or in part, for reasons that suggest that this be done.

CHAPTER VII. — THE SCHOOL FACILITATORS. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER VII]

Section 7.01. — Duties of the facilitator. (3 L.P.R.A. § 145x)

The facilitators shall not exercise executive, investigative, assessment or supervisory duties in the schools. They shall render support services to the teaching process and proffer advice on administrative matters when the schools so require through their directors.

Section 7.02. — Assignment of tasks. (3 L.P.R.A. § 145y)

The tasks assigned to the facilitators shall be grouped under two categories:

- (a) Administrative and managerial facilitation, and
- (b) Academic or teaching oriented facilitation.

Section 7.03. — Administrative and managerial facilitation. (3 L.P.R.A. § 145z)

The administrative and managerial facilitation duties shall consist of:

- (a) Organizing and offering training programs for the directive and administrative personnel of the schools in those areas involving budget preparation and administration; personnel administration; procurement procedures and fiscal audits.
- (b) Coordinating transportation and school cafeteria services.
- (c) Analyzing specific administrative problems of the schools and offering recommendations to deal with these.

- (d) Providing advice on the application of discipline standards at the schools and the procedures to be followed regarding these.
- (e) Coordinating recreational, cultural, academic and sports activities among the schools.
- (f) Taking steps to obtain specialized professional services for disabled children.
- (g) Maintaining the teacher registers established pursuant to Act No. 94 of June 21, 1955 [18 L.P.R.A. [18 L.P.R.A. §§ 260 et seq.], relative to the certification of the teachers and [advise] the school directors as to their use.
- (h) Advising the directors on the security services and systems available for the schools.
- (i) Performing any other administrative functions required by the Secretary.

The administrative and managerial facilitation duties shall be conducted throughout the educational regions that answer directly to the Undersecretary for Departmental Administrative Affairs. The Secretary shall provide for the organization and operation of the educational regions through regulations.

Section 7.04. — Academic and teaching oriented facilitation. (3 L.P.R.A. § 145aa)

The academic and teaching oriented facilitation duties shall consist of:

- (a) Advising the directors and teachers on the design of programs adjusted to student needs and experiences.
- (b) Advising the teachers on teaching methods and on the preparation and use of teaching materials and tools.
- (c) Providing orientation on the preparation of individualized teaching plans.
- (d) Providing professional improvement programs for the teaching and the teaching support personnel of the schools.
- (e) Advising the directors and the school councils on the ways and means of evaluating teacher performance.
- (f) Collaborating with the school directors in the preparation of programs for underachievers or potential dropouts.
- (g) Advising the teachers on procedures to evaluate student performance.
- (h) Advising the directors and the teachers on the design of special courses for students of high academic standing or with special abilities.
- (i) Directing the professional development centers established by the Secretary.

The academic and teaching oriented facilitation duties shall be conducted in the school districts under the direction of the superintendents who shall answer directly to the Undersecretary for Academic Affairs of the Department. The Secretary shall provide for the organization and operation of the districts through regulations.

Section 7.05. — Regions and districts — Other functions. (3 L.P.R.A. § 145bb)

The regional and district school offices may conduct, apart from the facilitation duties provided in this Act, other functions required by the Secretary in order to expedite and decentralize the operations of the Department. The tasks assigned to that effect by the Secretary shall remain separate from the facilitation duties and may not have any bearing on, affect or hinder the autonomy of the schools.

Section 7.06. — Revision of the duties of the facilitators. (3 L.P.R.A. § 145cc)

The Secretary may, from time to time, revise the duties of the facilitator so as to adjust the same to the changing needs of the Public Education System. The revisions conducted for that purpose shall maintain the facilitative functions within the limits established in Section 7.07 of this Act.

Section 7.07. — The Administrative Training and Counseling to Schools Institute. (3 L.P.R.A. § 145dd)

The duties and employees of the Institute for Educational Reform shall become part of an Administrative Training and Counseling to Schools Institute to be attached to the Office of the Secretary. The Secretary shall determine, through regulations, the functions of said Institute.

CHAPTER VIII. — THE SCHOOL PSYCHOLOGISTS [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER VIII]

Section 8.01. — Functions of the Psychologist. (3 L.P.R.A. § 146)

The school psychologists shall provide direct support and services to both the teaching staff as well as directly to the students. They shall evaluate the academic area (progress and knowledge), and the intellectual and emotional areas. In addition, they shall draft a student profile, of both their limitations as well as their strengths for the purpose of helping the teacher to use strategies that will help the student in the learning process. Shall [sic] counsel teachers in the search of options and shall enable the needed adjustments in benefit of the students.

He/she shall identify the students possible problems, intercede and, if necessary, refer the case to other health professionals.

Section 8.02. — Functions of the school psychologist. (3 L.P.R.A. § 146a)

The school psychologist shall:

- (a) Develop primary and secondary prevention strategies within the school context.
- (b) Identify learning and developmental problems in students.
- (c) Participate in interdisciplinary teamwork for the development, implementation and evaluation of programs in the school system.
- (d) Administer and interpret psychological and psycho-educational tests, questionnaires and inventories.
- (e) Counsel teachers, parents and administrators in the analysis, intervening and implementing of strategies for the solution of school problems and conflicts.

Section 8.03. — Proportion. (3 L.P.R.A. § 146b)

Once this act takes effect, positions shall be created to place a minimum of five (5) School Psychologists in each Educational Region of the Department of Education. Each psychologist shall visit two schools each week.

Three (3) years after this act takes effect, the necessary positions to be able to place, at least five (5) School Psychologists in each School District shall have been created. Ten (10) years after this act takes effect there should be a School Psychologist assigned to each school with five hundred (500) students or less. If the school has over five hundred (500) students, an additional School Psychologist should be appointed.

CHAPTER IX. — DEFINITION OF TERMS [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER IX]

Section 9.01. — Definitions. (3 L.P.R.A. § 143a)

For the purposes of this Act, the following terms shall have the meaning expressed below:

- (a) Autonomy. — The power granted the community schools to make decisions concerning their academic, fiscal and administrative affairs within the margins established in this Act.
- (b) Charter. — Official document stating the terms and conditions under which a community school is granted autonomy.
- (c) Community. — Neighborhoods located within the area served by a school.
- (d) Curriculum. — Study program or plan of a school or subject matter of a course.
- (e) Department. — The Department of Education.
- (f) District. — Functional unit of the Department under the direction of a Superintendent and where academic facilitation tasks are developed for the benefit of the school located within its geographical area.
- (g) Director. — The Director of a community school.
- (h) Teaching process. — Interaction between teachers and students in the classroom or in any other place where lessons are given.
- (i) Community school. — A community for studies constituted by the parents, the students, the teachers and the teaching and administrative support personnel serving a community and operating autonomously.
- (j) Evaluation. — Procedure to appraise the performance of the school teaching and non-teaching personnel for the purposes established in this Act.
- (k) Facilitator. — Official of an educational region or a school district who advises the school or the teachers on administrative or academic matters when their services are required.
- (l) Teaching personnel. — The teachers, school directors, librarians, guidance counselors, social workers and other technical, administrative and supervisory staff of the System who hold teaching certificates issued pursuant to the law.
- (m) Non-teaching personnel. — Officials or employees not included within the "teaching personnel" classification.
- (n) School psychologist. — The school psychologists shall provide support and services to the teachers, as well as directly to the student body. Their purpose is to attain a safe and healthy place in which the student can learn and where his/her development and growth is

nurtured within the nature and capabilities of the school. He/she may identify possible student problems, intervene with them and, if necessary, refer the case to other health professionals.

Applicants to the position of School Psychologist must submit a Certification from the Board of Examiners of Psychologists, created by Act No. 96 of June 4, 1983 [20 L.P.R.A. §§ 3201 et seq.], attesting that the applicant has a major in School Psychology, or if he/she is a psychologist with another major, the certification shall accredit his/her competence in the area of School Psychology, as determined by the Board of Examiner's Regulations.

(o) Region. — Functional unit of the Department under the supervision of a Director whereby administrative facilitation tasks are developed for the benefit of the schools included within a geographical area comprising several districts.

(p) Secretary. — The Secretary of Education of Puerto Rico.

(q) System. — The Public Education System of Puerto Rico.

(r) Superintendent. — Official in charge of directing the teaching and academic facilitation tasks in a school district.

CHAPTER X. — FINAL PROVISIONS. [3 L.P.R.A., CHAPTER 9A, SUBCHAPTER X]

Section 10.01. — Protection of rights and contracts. (3 L.P.R.A. § 146d)

No provision of this Act shall affect the economic rights of the officials and employees who by the date of approval of the same had been working at the Department or the Institute for Educational Reform.

Section 10.02. — Temporary Effectiveness of Regulations. (3 L.P.R.A. § 143a note)

The administrative standards and the regulations in effect by the date of effectiveness of this Act [July 15, 1999] shall continue in effect until repealed or amended, provided they are not incompatible with the provisions of this Act.

Section 10.03. — Appropriations of Funds. (3 L.P.R.A. § 143a note)

The resources needed for the implementation of this Act shall be consigned annually in the Joint Resolution for the General Expenses Budget of the Government of Puerto Rico and shall be administered in their totality by the Secretary.

Section 10.04. — Laws Repealed. (3 L.P.R.A. § 143a note)

Act No. 18 of June 16, 1993, as amended, known as the "Act for the Development of the Community Schools", Act No. 68 of August 28, 1990, as amended, known as the "Department of Education of the Commonwealth of Puerto Rico Organic Act", and Section 23 of Act No. 230 of May 12, 1942, are hereby repealed.

Section 10.05. — Community Schools exempted from the application of various laws. (3 L.P.R.A. § 146e)

The community schools shall be exempt from the application of the provisions of the following laws:

- (a) Act No. 230 of July 23, 1974 as amended [3 L.P.R.A. secs. 283 et seq.], known as the "Government of Puerto Rico Accounting Act."
- (b) Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act."
- (c) Act No. 164 of July 23, 1974, as amended [3 L.P.R.A. secs. 931 et seq.], known as the "General Services Administration Act."
- (d) Subsection B.2 of Section 3 of Act No. 147 of June 18, 1980, as amended, known as the "Office of Management and Budget Organic Act, relative to the administration, execution and control of the budget."
- (e) Section 177 of the Political Code of Puerto Rico, as amended, [3 L.P.R.A. sec. 551] which regulates the special compensations received by public officials or employees.
- (f) Act No. 57 of June, 1958, as amended [3 L.P.R.A. secs. 1101 et seq.], which regulates the private donations received by public institutions.

Section 10.06. — Severability Clause.

The unconstitutionality of any part of this Act as decreed by a competent Court shall not affect its remaining provisions, which shall continue in effect.⁷

Section 10.06. — (bis) Auditing Committee. (3 L.P.R.A. § 146f)

(a) The Auditing Committee of the Department of Education, hereinafter the "Committee", is hereby created for purposes of evaluating the administrative and fiscal operation of the Department, the internal control systems to prevent the commission of irregularities, the monitoring of auditing programs used to improve the systems and operations of the Department, and to corroborate the compliance of the Department with the applicable laws and regulations.

The Committee shall act with complete independence from the Secretary and the Department of Education. The Committee shall hold its first meeting within sixty (60) days after the confirmation of all its members. The Committee shall create regulations to govern its operations, which shall be approved within sixty (60) days after the first meeting is held and shall be based upon the recommendations and guidelines of the Office of the Comptroller of the Commonwealth of Puerto Rico and the Office of the U.S. Inspector General.

(b) The Committee shall be composed of five (5) members with right to vote, which shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico. The initial appointments shall be as follows: three (3) of the members shall be appointed for five (5) years; one (1) member shall be appointed for four (4) years, and one (1) member shall be appointed for three (3) years. The Chairperson of the Committee shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico, and his/her term shall be for five (5) years.

The members shall have as a minimum requirement a bachelor's degree from a higher education institution recognized by the Council on Higher Education. At least two (2) of the members shall be bona fide certified public accountants. Also, the members shall have at least five (5) years of experience in the field of auditing. Two (2) of the members shall have three (3) years of experience in any area related to auditing. No Committee members shall be reappointed for an additional term.

Any vacancy in the Committee shall be filled by an appointment made by the Governor; Provided, That when a vacancy occurs prior to the conclusion of the term for which the person was appointed, the successor shall be appointed for the remaining portion of the term. The members shall perform their duties until their successors are appointed and take office.

(c) The Committee shall be empowered to hold meetings as frequently as it deems necessary, establishing as a minimum four (4) regular meetings per year and all special meetings it deems necessary. Said meetings shall be held by convocation issued by the Chairperson of the Committee and circulated to all the members. Three (3) members shall constitute quorum to hold the meetings. All decisions shall be approved by a majority of three (3) of the members of the Committee.

(d) The works of the Committee shall be carried out confidentially until the pertinent reports are rendered to the Governor, the Legislature and the Secretary of the Department of Education. The Committee shall be empowered to review and audit all internal procedures of the Department, but shall not participate actively in the creation or implementation of public policy, systems, procedures, preparation of records or any other administrative activity that is of exclusive competence of the Secretary. The information compiled and evaluated by the Committee by virtue of its duties shall be considered privileged and confidential. It shall not be revealed nor used for any purpose other than the pursuit of the work of the Committee. The responsibilities and duties of the Committee, among others, shall be the following:

- (1) To assist the Office of Internal Auditing of the Department of Education in the performance of its supervisory responsibilities.
- (2) To provide communication channels among internal and external auditors and the Secretary of the Department of Education through the holding of periodic meetings with each group of auditors and the Administration in executive sessions held separately or jointly, requesting, if necessary, that issues of importance to the Committee be stated by each of the aforementioned groups.
- (3) The Committee shall be empowered to carry out or authorize investigations on those issues of competence of the Committee that are within its scope of responsibilities, and may contract independent legal advisors, accountants, auditors, experts or any other personnel necessary to assist in any investigation or in the performance of the duties of the Committee.
- (4) To perform any other duty assigned by means of an act or executive order.
- (5) To review annually the results of the risk handling procedures of the Department of Education submitted by the Director of the Office of Internal Auditing of said agency.
- (6) To review the scope of the annual plan of the internal and external auditors regarding the handling of risks to ensure the appropriate supervision and effective use of the auditing resources.

- (7) To review with the Secretary of the Department of Education and the Director of the Office of Internal Auditing any significant findings, during the year, the response of the Department to said findings and the follow-up on the previous recommendations.
 - (8) To consider the results of the reviews of policies, procedures and operations concerning any discretionary account of the Secretary or the Department of Education.
 - (9) To review with the Secretary and the Director of the Office of Internal Auditing the sufficiency of the budget and the qualifications and personnel assigned to the Office of Internal Auditing.
 - (10) To review with the Secretary, external auditors and the Office of Internal Auditing the annual financial statements of the Department of Education and the audit reports prepared by the external auditors, communications, and the review of the results of audits performed by the Office of the U.S. Inspector General of the federal Department of Education, Office of the Comptroller of Puerto Rico, or any other regulating group.
 - (11) To review and update the regulations of the Committee at least every three (3) years.
 - (12) To recommend the designation or dismissal of the Director of the Office of Internal Auditing.
 - (13) To supervise the effectiveness of the internal auditors, their objectivity and independence of criteria through continued cooperation with them by reviewing the content of their reports and recommendations and the scope of any consulting services and related expenses.
 - (14) The Committee shall operate autonomously, and shall evaluate the transactions performed by the agency in order to make recommendations with respect to the steps to be taken pursuant to the evaluations.
 - (15) The Committee shall render an annual report at the end of every fiscal year to the Legislature and the Office of the Governor on all the tasks performed during the year with the final result of the evaluations made during said term, and the recommendations deemed pertinent for fiscal control and the effective accounting of the funds, property and assets of the Department of Education. It shall likewise be empowered to recommend and/or refer those actions or findings to the state or federal administrative agencies with jurisdiction over the investigated issue.
- (e) The members of the Committee shall be entitled to a fixed per diem, which shall be the same as the one established by the Legislature for its own members.

Section 10.07. — Effectiveness.

This Act shall take effect immediately after its approval.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.