

(H.B. 1033)

(No. 46)

(Approved January 30, 2006)

AN ACT

To amend subsection (a) and add a new subsection (c) to Section 8 of Act No. 51 of June 7, 1996, as amended, better known as the “Integral Educational Services for Persons with Disabilities Act,” in order to modify the composition of the Consulting Committee and establish a Standing Parents Research and Scientific and Structural Support Subcommittee for Children with Disabilities, which shall be constituted by parents and members of the scientific community specialized in physical, mental and neurological disability; and for other purposes.

STATEMENT OF MOTIVES

Act No. 51, better known as the “Integral Educational Services for Persons with Disabilities Act,” became a legal statute on June 7, 1996. The Statement of Motives of that law indicates that our Constitution upholds the inalienable right of every person to an education which will foster the full development of their personalities and the strengthening of their fundamental rights and liberties. It also directs the Government to maintain a primary and secondary public education system free of cost and of a non-sectarian nature for all our children and young people without distinction for reasons of religion, race, ethnic origin, sex or physical or mental condition.

The aforementioned Act No. 51 also fixed common responsibilities for all agencies of the Commonwealth of Puerto Rico and imposed specific

duties upon certain agencies that render direct specialized professional services or services related to this sector of the population. It also created a new entity attached to the Department of Education, namely, the Office of the Assistant Secretary for Integral Educational Services for Disabled Persons, which would ensure compliance with said obligations.

This Legislature recognized the importance of the parents of disabled persons in establishing and later implementation of the aforementioned Act No. 51, as indicated in the Legislative Report of the Special Joint Committee for the Legislative Integral Educational Reform regarding the Substitute to Senate Bill No. 1215¹. The aforementioned legislative report establishes that: *“In order to establish basic guidelines to orient the officers that would enforce this Act and to allow for an easier interpretation of its provisions, we highlight the general public policy principles set forth in the educational reform to which this legislative action refers:*

1. Recognition of the social value the integration of disabled persons has on society...

2. Recognition of the responsibility shared by the family and the government...”

This imperative recognition by the Legislature notwithstanding, the parents of disabled persons² have never played a major role or participated in the Special Education Consulting Committee of the Department of Education created by virtue of Act No. 51, *supra*, attached to the Office of the Assistant Secretary for Integral Educational Services for Disabled Persons of the Department of Education.

¹ Subsequently Act No. 51 of June 7, 1996.

² As defined in Act No. 51, *supra*.

Pursuant to the provisions of the aforementioned Act No. 51, on May 20, 1998, the Department of Education submitted the Operating Regulations of the Special Education Consulting Committee according to the mandate of Act No. 51, *supra*. An Executive Committee constituted by a chairperson, a vice-chairperson, a treasurer, a secretary and five vocals was constituted through the aforementioned regulations. Also instituted were three standing Subcommittees, to wit: the Follow-up and Evaluation Committee, the Finances Committee and the Planning Committee.

Aware of the preceding and of the imperative need to further involve the fathers and mothers of the disabled persons who benefit from the statutes set forth in Act No. 51, *supra*, a standing fourth subcommittee is created by this Act, constituted by the fathers and mothers of disabled persons, as defined in Act No. 51, *supra*, and by members of the scientific community known to be well versed on the matters under discussion here. This Parents and Scientists Subcommittee shall function under the same premises established for the aforementioned three Subcommittees, based on the Operating Regulations of 1998.

A Parents and Scientists Subcommittee is hereby created through this Act, to be constituted by twelve (12) members, two (2) of which shall be representatives of organized non profit entities related to the physical, mental and neurological conditions, one of which shall be an attorney in private practice, six (6) of which shall be fathers and mothers, and the remaining three (3) shall be recognized members of the scientific community specialized in difficulties due to physical, mental and neurological conditions.

The Subcommittee shall be specifically constituted as follows: regarding the parents, two (2) shall represent the physical disability

conditions, two (2) the conditions of a neurological nature and two (2) the conditions derived from mental or behavioral disorders so that they may represent the interests and the wellbeing of disabled minors according to the public policy established in Act No. 51, *supra*, and the provisions of the Operating Regulations of 1998, by contributing with their practical experiences. The three scientists recognized as experts in the matters at hand shall represent each of the conditions described above, that is, one (1) the physical conditions, one (1) the mental conditions and one (1) the neurological conditions. These scientists shall provide advice according to their expert knowledge and experience to the fathers and mothers so as to be able to offer practical, educated and critical counseling and analysis to the Consulting Committee described above.

These representatives shall be appointed by the Secretary of Education and shall be members of the scientific community specialized in the matters described above and the fathers and mothers active in the non profit community organizations. We understand that these representatives encompass all the knowledge necessary to attend to the specific needs of every child. The Subcommittee, through its recommendations and scientific evidence, shall be responsible for supporting the work of the Consulting Committee created by virtue of Act No. 51, *supra*, which in full shall approve or disapprove the work of the Subcommittee herein established, and which shall take over said work and be responsible for counseling the Assistant Secretary for Integral Educational Services for Disabled Persons on all matters pertaining to the updating of the broad spectrum of technical and scientific knowledge.

The preceding is established to capably comply with the tenets of the Public Policy statement of Act No. 51, *supra*, where it indicates that the

Government of the Commonwealth of Puerto Rico reaffirms its commitment to promote the constitutional right of every person to a free education to ensure “*the full development of his/her personality and strengthen his/her respect for the rights of man and the fundamental liberties. To attain this purpose the family shall partake of this joint effort since the integral development of the person with disabilities should be framed within the family context.*” See Sec. 3 of Act No. 51, *supra*. [Our emphasis].

We must point out that in spite of the transparency of the legislative intention set forth in the report of the aforementioned legislative committee, the steps taken by the pertinent agencies pursuant to the mandate of Act No. 51, *supra*, have been few and far between. An example of this is the most recent judicial decision issued by a court of first instance³, a class action initiated because of the dreadful services provided to the persons with disabilities, during which the heads of the concerned agencies were questioned as to the efforts of their agencies to achieve the programmatic objectives of Act No. 51, *supra*.

Due to the nature of the aforementioned decision, the findings are limited to a number of stipulations that specifically demand that the Department of Education of the Commonwealth of Puerto Rico implement concrete corrective measures to provide to the class in question those special education services and other related services that had been guaranteed by virtue of the current legislation on special education. It is furthermore established that the Assistant Secretary for Integral Educational Services for Disabled Persons has the enormous task of complying with these agreements and recognizing in justice the right of persons with disabilities to achieve the full development of their personalities.

³ *Rosa Lydia Vélez and others versus Awilda Roque and others, Civil No. KPE 80-1738.*

It is evident that the creation of the aforementioned Consulting Committee presupposes the achievement of such goals through the creation of an evaluating body that must study the problems of disabled persons and make recommendations to the Secretary as well as promote the establishment of educational and counseling programs for the benefit of persons with disabilities. Furthermore, the Committee was directed, as stated in subsection (b) of Section 8 of Act No. 51, *supra*, to render an annual report for the consideration of the Legislature, the Secretary of Education and the Governor, among others, to inform about the affairs and achievements of the Committee.

It is also necessary to ask and particularly difficult to understand how can the absence of an interdisciplinary committee of parents and scientists that supports the operations of the Consulting Committee with the most recent practical and scientific evidence on the matter in question, be justified. Particularly, when the Department of Education and the other agencies concerned are required to provide services that fix as criteria of their adequacy the specific needs every disabled child required without one condition being treated as privileged over another.

It would be most difficult to achieve this mandate if the most advanced intervention, discernment and initial identification techniques are not available as a scientific data bank through which specific problems would be resolved. Likewise, the question must be asked: Are the needs of a deaf child the same as those of a child with autism? How can a child with autism be identified early, opportunely and confidently, for example, if the evaluations that are used at an early stage fail to reflect the behavioral disorders hardly perceptible through scientific observation?

We certainly believe that there is little probability that the preceding questions can be answered accurately without having a standing subcommittee available to counsel the Assistant Secretary for Integral Educational Services for Disabled Persons about developing curriculums especially adapted to the specific needs of disabled children, selecting special and indispensable educational equipment and materials and populating the special education units with professionals educated in every specialty, a task which requires experience and expertise. It is indispensable to create a scientific and practical brain trust at the agency level to fulfill such a need.

What precedes is of the utmost importance and concern since in spite of the fact that the basic orientation guidelines provided for agency heads prescribe the responsibility to be shared by the government and the family, there has never been a decisional space for participation, a forum for expression or the faculty to influence the implementation of the public policy which affects the children, the legislative aspiration set forth in Act No. 51, *supra*, shall never be achieved. For these reasons the Legislature orders through this Act the creation of a Standing Parents Research and Scientific and Structural Support Subcommittee for the Children with Disabilities.

The Subcommittee shall be responsible for collecting all scientific data that may arise from the most recent scientific contribution in relation to physical, neurological or mental disorders, including practical and therapeutic experiences in other jurisdictions. It shall also advise the Consulting Committee about the implementation of the public policy of the government with special attention to the collection of initial location and discernment plans that guarantee the speedy identification of the condition

and the design of the best services. The Subcommittee shall be responsible for making recommendations in the annual reports the Department of Education submits to the Office of the Governor and to the Legislature to best attend to the special needs of the population of children with disabilities according to their specific needs.

Furthermore, the Subcommittee must establish action plans to deal with the needs of persons with disabilities that include monitoring and follow-up procedures for the agencies about the services they offer such a population. This power to oversee shall serve as an instrument to ease the functions of the Office of the Assistant Secretary and thus guarantee that the agencies comply with the aforementioned Act No. 51.

Thus, this Legislature deems it to be a moral imperative to reassert the public policy set forth in the aforesaid Act No. 51, in order to provide services that would guarantee the full development of the personalities of children with disabilities. It furthermore recognizes the importance of the identification, early intervention and selection of the environment most suitable to the needs of the children with disabilities as an objective to be achieved through a public policy that is responsive to the best interests of that group.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Subsection (a) of Section 8 of Act No. 51 of June 7, 1996, as amended, better known as the “Integral Educational Services for Persons with Disabilities Act,” is hereby amended to read as follows:

A. Composition

The Secretary shall constitute a Consulting Committee composed of twenty-six (26) members, fourteen (14) of which shall represent the public interest, all to be designated by him/her. These shall be

two (2) persons with disabilities, one of which shall be a youth with disabilities, six (6) shall be parents of children and youths with disabilities, of which two (2) shall represent those with physical disabilities, two (2) with conditions of a neurological nature and two (2) with conditions derived from mental or behavioral disorders ; one (1) private citizen of recognized interest in the problems that affect children and youths with disabilities; one (1) representative of the state university; and three (3) scientists recognized as experts in the fields who shall represent each of the above described conditions, that is, One (1) physical conditions, (1) mental conditions and (1) neurological conditions, in addition of a school psychologist.

As representatives of the government the following shall be designated: two (2) teachers, one (1) a special education teacher and one of regular education, one (1) school director, one (1) regional director and one (1) supervisor, designated by the Assistant Secretary and one (1) representative of the Secretary of Health and one (1) representative of the Secretary of the Sports and Recreation Department and two (2) representatives of the Department of the Family, one of which shall be from the Families and Children Administration and one (1) representative of the Department of Corrections and Rehabilitation and two (2) representatives of the Department of Labor and Human Resources, one of which shall be from the Vocational Rehabilitation Administration, which shall be appointed by the Secretary of the Department which they represent.

The members of the Consulting Committee shall be designated by the Secretary for a four (4) year term or until their successors are appointed and take office. The representatives of the Secretaries of the Departments of Health, Sports and Recreation, the Family and Corrections and Rehabilitation shall be appointed by the Secretary of the Department which

they represent. The initial appointments of the nine (9) representatives of the public interest shall be made as follows: three (3) members for a term of two (2) years, three (3) members of a term for three (3) years and three (3) members for a term of four (4) years.

Upon the conclusion of the terms of the initial appointments, the subsequent appointments shall be for a term of four (4) years.

The Committee shall evaluate the performance of the members every two (2) years and shall submit its recommendations to the Secretary. The Secretary may dismiss the officials appointed by him/her or request the dismissal of any representative of another Department for just cause, upon prior notice and hearings. In the event of a vacancy, the Secretary shall make a new appointment for the remainder of the term of the member who has been replaced.

The Committee shall elect a chairperson from among its members.

The members of the Committee who are not public officials or employees shall receive per diems as provided in the regulations of the Department of Education for each day of session which they attend.”

Section 2.-The title of subsection (b) of Section 8 of Act No. 51 of June 7, 1996, as amended, better known as the “Integral Educational Services for Persons with Disabilities Act,” is hereby amended to read as follows:

“B. Functions and Duties of the Consulting Committee.”

Section 3.-A new subsection (c) is hereby added to Section 8 of Act No. 51 of June 7, 1996, as amended, better known as the “Integral Educational Services for Persons with Disabilities Act,” to read as follows:

“C. Standing Parents Research and Scientific and Structural Support Subcommittee for the Children with Disabilities.

A Standing Parents Research and Scientific and Structural Support Subcommittee for the Children with Disabilities is hereby established. The same shall be attached to the Consultation Committee of the Office of the Secretary for Auxiliary Services and be responsible for supporting with recommendations and scientific evidence the work of the Consulting Committee described in the preceding subsection A. It shall also enable the Office of the Assistant Secretary to ensure that the agencies fulfill the responsibilities set forth in this Act.

Said representatives shall be appointed by the Secretary of Education and its members shall be two (2) representatives of organized non profit organizations related to the physical, mental and neurological conditions, one (1) attorney in private practice, the three (3) members of the scientific community specialized in the aforementioned disciplines and the six (6) fathers or mothers.

The members of the Subcommittee appointed shall hold office for a term of five (5) years or until their successors are appointed and take office. Should a vacancy arise, the person appointed shall hold office for the remainder of the term of the member who has been replaced. The Consulting Committee may dismiss from office any member of the Subcommittee for just cause upon prior notice and in harmony with the regulatory provisions of the Operating Regulations of the Consulting Committee.

The members of the Subcommittee who are not public employees shall receive a per diem of fifty (50) dollars for each meeting or official activity they attend. They shall likewise be entitled to a reimbursement for the necessary expenses they may incur in the performance of their duties.

The Secretary of Education shall designate a Chairperson from among the members. Five (5) members shall constitute quorum for the meetings and

they themselves may call a meeting after notice to the Secretary. All agreements shall be adopted by a majority of the members present. The Subcommittee shall hold the necessary duly summoned regular and special meetings, provided that it must meet at least once a month.

The Subcommittee shall adopt bylaws to govern all its work, deliberations and functions and all those matters that may be necessary to achieve the purposes of this Act and its Regulations. The Department of Education shall provide to the Subcommittee the offices, equipment, supplies, materials and human resources needed to comply with the functions provided in this Act.

The powers granted in this subsection shall be exercised for the general purpose of implementing the public policy of the Government efficiently in order to further the rehabilitation, quality of life and development of the children who suffer disabilities due to any disability or condition which hinders the full development and comprehensive rehabilitation of children with disabilities pursuant to the provisions of this Act.

The Subcommittee shall coordinate with the various necessary agencies, the design and development of specialized treatment and intervention projects and programs for helping the population according to its special needs due to conditions derived from physical, neurological and mental or behavioral disabilities.

The Subcommittee shall have the following duties, without it being construed as a limitation:

(a) Provide guidelines and orientation to the public agencies and private entities about the programs and projects for implementing the

evaluation and therapy methods recommended according to the latest findings of the scientific community.

(b) Foster the participation of the citizens for the development and implementation of programs to promote the identification and registration of new cases of children with difficult to identify and diagnose disorders.

(c) Foster and conduct studies and research on these matters and on the scientific advances of the international medical community as well as document information as to the best way to include the interfamilial circle within the models that benefit the children with physical, neurological and mental or behavioral disorders.

(d) Evaluate the existing Federal, Commonwealth and International legislation and programs for developing mass diffusion campaigns about the importance of early identification and intervention in these cases.

(e) Establish priorities and according to these, recommend to the Governor and to the Legislature of Puerto Rico the administrative decisions and measures that should be adopted to attend to the problems of the population of children with special needs.

(f) Advise and coordinate with the Office of the Assistant Secretary for Integral Educational Services for Disabled Persons and other pertinent public agencies for the development and implementation of an aggressive community education plan for the proper implementation, early intervention and therapeutic methods to achieve the effective rehabilitation of the children.

(g) Require that the public agencies provide information and collect statistics, data and any other reports on cases of persons with disabilities described in this Act.

(h) Propitiate the exchange of information with Federal, Commonwealth and local agencies and with public and private organizations in Puerto Rico or from abroad devoted to the development of programs directed to the community of children with disabilities.

(i) Propose legislation deemed pertinent to implement the public policy this Act seeks to achieve.

(j) Prepare a study of what is needed based on the findings and conclusions of the Final Reports drafted by the Legislature and the most recent findings of the scientific community.

(k) Design Action Plans for working with the previously identified needs that include procedures for monitoring and following-up the participation of the agencies.

(l) Evaluate the degree of compliance of the agencies regarding their common and specific responsibilities as established in this Act. Said analysis shall be referred to the Office of the Assistant Secretary for the corresponding action.

(m) Establish quality control parameters for the services which the agencies provide to the persons with disabilities.

(n) Follow-up to the Strategic Plan demanded in Section 13 of Act No. 238 of August 31, 2004, known as the “Bill of Rights of the Persons with Disabilities.”

(o) Follow-up to the recommendations made by the agencies themselves and by the Consulting Committee.

(p) Submit an annual report to the Governor and to the Legislature, through the Department of Education, about its activities, as well as any other special reports deemed convenient or that are required by the Governor

or the Legislature not later than the last day of the month of January of every year.

Carry out any other function needed to achieve the purposes of this Act.

The departments, agencies, offices and political subdivisions of the Commonwealth of Puerto Rico shall submit to the Standing Subcommittee, free of charge and fees, all official information, book, pamphlet or publication, certified copy of documents, statistics and collection of data which the Subcommittee should request for official use.”

Section 3.-Regulations

The Secretary is hereby directed to amend the Operating Regulations of the Special Education Consulting Committee, adopted May 20, 1998, so that it may be consonant with the above provisions.

Section 4.-Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No.46 (HB. 1033) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT amend subsection (a) and add a new subsection (c) to Section 8 of Act No. 51 of June 7, 1996, as amended, better known as the “Integral Educational Services for Persons with Disabilities Act,” in order to modify the composition of the Consulting Committee and establish a Standing Parents Research and Scientific and Structural Support Subcommittee for Children with Disabilities, which shall be constituted by parents and members of the scientific community specialized in physical, mental and neurological disability; and for other purposes,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 14th of August of 2006.

Francisco J. Domenech
Director