

COMMONWEALTH OF PUERTO RICO

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Assembly

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Session

**SENATE OF PUERTO RICO**

**S.B. 1456**

August 20, 2015

Introduced by *Senators Bhatia Gautier, González López, Ruiz Nieves, Nadal Power, Pereira Castillo, Torres Torres, Nieves Pérez, Rodríguez Otero, Dalmau Santiago, Suárez Cáceres, Rodríguez Valle, Vargas Morales, and Rivera Filomeno*

Referred to

**A BILL**

To create the Alliances in Public Education for the Commonwealth of Puerto Rico Act; repeal Subsection (e), add a new Subsection (e) and Subsection (f) to Section 1.02; amend Sections 1.03, 2.02, 2.05, amend Subsections 18, 19 and 21, and add Subsection (25) to Section 2.13, amend Section 2.15, amend Subsection (a) of Section 2.16, amend Sections 2.17, 2.19, 2.20, 2.21, 3.07, 3.13, 4.03, 4.08, 4.09, 4.11, 5.01, Subsection (a) of Section 6.04 and Subsection (k) of Section 9.01 of Act No. 149-1999, as amended, known as the Organic Act of the Department of Education of Puerto Rico; amend Subsection (l) of Section 1.1 and Subsection (a) of Section 3.1 of Act No. 160-2013, as amended, known as The Commonwealth of Puerto Rico Teacher's Retirement System Act; amend Subsection 4 of Section 1-104 of Act No. 447 of May 15, 1951, as amended, to establish the principles of public policy that will guide the Puerto Rico Public Education System; establish principles of transparency and accountability; create Public LIDER Schools in the Puerto Rico Public Education System to promote innovation and academic excellence; create the Educational Alliances and Innovation Board as a fiscally independent and autonomous entity responsible for ensuring the proper administration and operation of all Public LIDER Schools; delegate administrative, fiscal and operational powers to School Directors; ensure the administrative, fiscal and operational autonomy of all Public Schools in Puerto Rico; modify the composition of the School Board, in order to convert it into the LIDER School Board, with the capacity to transform schools; create mechanisms for the operation of the volunteer registry; ensure access to books and technology in all classrooms; establish the Teacher Evaluation and Support

Program; establish the national per student budget formula; establish the formula to determine the maximum amount of Public Schools; and for other purposes.

### STATEMENT OF INTENT

The fundamental question we must face as a society is whether our children who are educated in the public schools of Puerto Rico are today receiving the best possible, accessible and available education. The answer is no. This measure is an attempt by this generation to reverse years of abandon and neglect of the most basic educational principles that must be sowed and harvested in Puerto Rico. It is the greatest duty, responsibility and commitment of every society to educate its members properly. This fundamental principle has permeated generations to the point of having become a recognized and accepted fundamental human right. The right to an education harbors the promotion and understanding of all other rights. For this reason, the Government of Puerto Rico has prioritized the education of its citizens since before our Constitution was approved. Since 1952, the Constitution of the Commonwealth of Puerto Rico establishes in its Article II, Section 5 that:

*Every person has the right 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. There shall be a system of free and wholly non-sectarian public education.*

The social and political history of Puerto Rico attests to the great value that our forebears placed on public education. There have been sundry initiatives that respond to the serious challenges we have faced as a society in the effort to provide our youth with a high-quality public education. Among these is the comprehensive study of the educational system published by the Council on Higher Education in 1961, as requested by the House of Representatives Committee on Public Education. The study encouraged reforms to the public education system, such as the creation of Educational Regions, among other measures meant to foster the administrative autonomy and decentralization of the Department of Education.

Ten years later, with a complete reform of the system in view, a reevaluation of the Education System of Puerto Rico was proposed. To this end, the Committee on Educational Reform was created under Act No. 17 of August 9, 1974. This reform movement was strengthened by the approval of Joint Resolution No. 8 of July 24, 1985, which created the Joint Committee for Integral Educational Reform. As a result, the Committee submitted a Bill for a new Organic Act for the Department, which later became Act No. 68 of August 28, 1990. Soon after, Act No. 18-1993 was approved, thus creating Community Schools. With the approval of Act No. 149-1999, known as the Organic Act for the Puerto Rico Department of Education, the functional structure of the Puerto Rico Public Education System was reformed.

Despite all that has been done to analyze and evaluate the situation, fifteen (15) years have passed since the previous effort, and the education system has deteriorated markedly and constantly. This state of affairs calls for immediate and effective action. Currently,

government contributions to the education system are substantial, adding up to \$3,294 million for the 2014-2015 fiscal year. This figure represents almost one fourth of the operational budget for the government of the Commonwealth of Puerto Rico paid from the General Expenses Budget.

Notwithstanding the substantial contribution by the State, the acute crisis and deterioration that public education currently faces is general public knowledge. For example, one of the instruments used by the Department of Education to measure the academic achievement of students is the Puerto Rican Tests of Academic Achievement (PTAA), a method is endorsed by the United States Department of Education. An evaluation of student performance in these test scores demonstrates a serious academic decline. For the 2013-2014 school year, the scores showed that most students in the public system did not master PTAA subjects. In Mathematics, 70% percent of all students on the Island did not pass the tests; in Spanish, 54% did not pass; in Science, 54% did not pass; and in English, 59% did not pass. These scores are evidently poor. Limited access to basic learning resources, such as books, educational materials, facilities, as well as poor Internet access, continues to be a sad reality in schools. Despite the high number of teachers and personnel, the agency lacks the administrative capacity to establish the necessary coordination between its different operational components, so as to promote the most efficient use of educational resources.

Moreover, the agency, with a budgetary allocation of more than \$17,700 million over the past five (5) years, has lost one fourth of its student population due to demographic reasons, dropping from 493,393 students in 2010 to roughly 380,000 in 2014. Despite this significant reduction, the Department maintains the same spending pattern and promotes overly timid strategies in seeking to make better use of the limited resources available during these difficult fiscal times.

The present state of our public education system is the result of wrong decisions, misguided public policy-making and poor use of the available resources by several government administrations, all of which have led to the crisis we face today. Administrative shortcomings and a lack of efficiency parameters and accountability mechanisms have been part of the grave problem our public education system faces. No one takes responsibility for the result.

The diagnosis of the problem is clear. Resources are not being effectively focused to directly strengthen the education of our children. A new regime of educational governance in Puerto Rico requires that there be positive and negative consequences for the performance of the State's function in educating its children. That is why an aggressive transformation of the education system can no longer be postponed. To achieve this transformation, we must commit ourselves to transparency and accessibility of information for students, parents and teachers; to innovation, rigor and academic excellence; and to accountability, as well as every effective strategy available to accelerate and improve student learning. We are aware that there is no one single solution to the problem of public education in Puerto Rico. Some of the necessary actions include timely interactions, active communities, engaged parents, professional development for

administrators and asking non-profit entities to help in the administration of schools. This legislation contains four (4) initiatives, or strategies, aimed at stimulating the transformation of the Puerto Rico Public Education System into a modern, innovative system that assumes responsibility for the needs of students and their communities.

### **AMENDMENTS TO THE ORGANIC ACT FOR THE DEPARTMENT OF EDUCATION (ACT NO. 149-1999)**

The first initiative adopted by means of this legislation is a series of amendments to Act No. 149-1999, as amended, known as the Organic Act of the Department of Education of Puerto Rico, directed to promote innovation and true administrative, fiscal and operational autonomy for all Public Schools in Puerto Rico, so that they can fulfill their educational responsibilities according to the needs of their students and communities. Among the new administrative functions of School Directors are the preparation and administration of their annual school budget, the purchase of materials for the school and the hiring, evaluation and removal of the necessary personnel to ensure the optimal functioning of the Public School they direct. All of the functions and responsibilities that this legislation delegates directly to the School Director previously fell to the Secretary of the Department of Education and his/her assistants. Delegating administrative, fiscal and managerial power to the School Directors ensures that operational authority and decision-making really occur at the appropriate level in each one of the Public Schools of the Commonwealth.

In addition to the autonomy that this legislation ensures through amendments to the Organic Act of the Department of Education of Puerto Rico, Public Schools of the Commonwealth are aggressively and effectively modernized by providing them with innovative tools that maximize the quality of teaching and adjust it for the benefit of all our students and the community in general. To this effect, it is required by this legislation that each Public School have a roster of at least five (5) citizen volunteers who lend their teaching and non-teaching services to each school. These citizen volunteers can participate as substitute teachers, teaching assistants in the classroom or as leaders of extracurricular activities at the school. In this way, Public Schools will have the necessary personnel to fulfill their main responsibility, which is to offer quality education through the participation, help and commitment of different members of the community dedicated to this great effort. This Act also requires that Public Schools facilitate the use of online educational materials for the use and benefit of the students and teachers in the classroom. From now on, every student in the Puerto Rico Public Education System will have all of the necessary textbooks and materials for learning in and outside of the classroom through the use of the Internet.

Measurement and transparency are indispensable elements in this effort to transform public education in Puerto Rico, since the pertinent and necessary information regarding the education of our children and youth should be accessible to all individuals interested in the performance of the System and its components, including students, parents, teachers and the community in general. To this end, a Teacher Evaluation and Support

Program is created through this legislation, as an amendment to Act No. 149-1999, to measure and oversee the performance of teachers and School Directors in the classrooms of Public Schools. This Program is founded on a strategy of measurement and evaluation that will allow for the constant assessment of teaching personnel employed in the System and the public disclosure of these evaluations for administrative and managerial decision making based on their results.

### **BUDGET PER STUDENT**

This Act also has as its objective the redirecting of Public Education System resources to the students. Despite the great amount of money currently invested in the Department of Education, it fails to reach the student or the school. Only 42% of the funds that the Department of Education receives to operate and administrate schools are used for “teaching expenses”, according to information provided by the Department’s consulting firm, the Boston Consulting Group (BCG). This legislation establishes that budgets of Public School will be drafted according to the needs of the students enrolled in each school, as well as instating the figure of the Chief Financial Officer, who will set into motion efforts to ensure compliance. To achieve the aforementioned, this Act establishes a mandate so that the Secretary of Education can establish a formula per student, which contains a base amount per student that can be increased due to different cost factors, including academic level, special programs, special education, condition of the physical facilities, vocational programs and specialized programs, among others. The amount allocated to each one of the Schools will be determined by using the average number of students multiplied by the base amount per student plus all the additional cost factors applicable per student.

### **TOTAL NUMBER OF PUBLIC SCHOOLS**

Following upon the findings and recommendations of the Boston Consulting Group (BCG) report commissioned in 2013 by the Department of Education, a formula is adopted through this legislation to determine the total number of Public Schools that can be operating in Puerto Rico. Despite the closing of 135 schools since the beginning of 2014 as a fiscal responsibility measure implemented by this Administration at the beginning of 2014, the Puerto Rico Public Education System still has 1,330 schools for approximately 400,000 students. However, jurisdictions with an enrollment comparable to Puerto Rico, such as Los Angeles and Miami Dade, have between 600 and 400 Public Schools. That is to say that Puerto Rico currently has more than double the number of Public Schools that operate in jurisdictions of the United States of America with approximately 400,000 students and greater geographical scope.

This reality shows the rigid administration that has prevailed in the Department of Education for years and that today is exacerbated due to the fiscal emergency in the Commonwealth. One of the imperative and fiscally responsible measures to take in order to guarantee the proper use of public funds, the operational and administrative cost efficiency of the System, and the quality of public education in Puerto Rico is the development of a formula that annually determines the number of Public Schools that can

operate in the Commonwealth. This formula will consolidate Public Schools that do not have enough students to operate in a cost-effective manner through an organized procedure that takes into account the needs of the students and of the general school community. The formula considered in this legislation is based on the division of the number of students enrolled in the Puerto Rico Public Education System for the school year immediately preceding the current year by four hundred (400). The Chief Financial Officer and the Office of Management and Budget will be responsible for determining the maximum number of Public Schools that can operate in Puerto Rico annually in compliance with the established formula and criteria established by law. The Department of Education will take all the necessary actions to comply with the calculated amount.

### **PUBLIC LIDER SCHOOLS**

The final strategy, and one of the most significant presented in this legislation, is our decision as a people to prevent the deterioration of the most challenged schools in Puerto Rico. To this aim, we propose the creation of a new administrative concept for public schools that will reverse this trend and lead the way for change. These schools will be known as Public LIDER Schools. They are, and will be, public schools that will enjoy the highest degree of fiscal, operational, administrative and curricular autonomy permitted by law. This strategy is based on collaboration and the creation of alliances that allow for the gathering and utilization of the best, most efficient and most innovative resources available to meet the needs of the public schools of Puerto Rico. Public LIDER Schools will be public schools that operate under Alliances between the Educational Alliances and Innovation Board, created by this Act to authorize the same, and Certified Educational Entities. The Educational Alliances and Innovation Board will be an independent entity responsible for ensuring the proper administration and operation of all Public LIDER Schools. It will consist of the Secretary of Education and eight (8) additional members. Said Board will award School Innovation Alliances for the operation and administration of Public LIDER Schools. Certified Educational Entities eligible to participate in this type of educational alliance will be public educational entities such as non-profit educational entities, universities, teacher cooperatives, municipalities, consortiums of municipalities and public education institutions, non-profit community organizations, and other non-profit institutions that specialize in education. Low performing public schools and schools that choose to participate in this type of alliance by a majority vote of faculty and/or parents of enrolled students will become Public LIDER Schools through an organized and accountable application process to the Educational Alliances and Innovation Board.

The objective of Public LIDER Schools is to develop public schools that are “free” of the bureaucracy that overwhelms the current system; “innovative” public schools that enjoy the highest degree of fiscal, operational, administrative and curricular autonomy permitted by law to implement and experiment with different academic programs, pedagogies and teaching methods; “democratic” public schools that actively engage with communities and allow for maximum citizen participation so that parents, teachers and students can take control of education; “excellent” and “responsible” public schools that respond seriously and professionally to the needs of the students and the communities

that they serve and that can be held accountable to these communities in a transparent manner.

The development and use of educational alliances to optimize the administration and operation of Public Schools is not new in Puerto Rico. In fact, many successful and exemplary Public Schools currently exist, such as University of Puerto Rico High School (UHS) and Juan Ponce de León School, among others, which operate in alliance with university institutions and non-profit organizations around the Island. The Public LIDER School model we propose seeks to replicate these alliances in an organized and uniform manner. This model, which has been successfully implemented in the United States and other countries, such as Colombia and the United Kingdom, among others, will allow the lowest-achieving Public Schools and those that want to become Public LIDER Schools to enjoy complete operational, administrative, fiscal and curricular autonomy with the support of a Certified Educational Entity that is committed, through an Alliance, to the operational and academic improvement of said schools.

Public LIDER Schools will be independent and alternative public schools that will lead the way in innovation, accountability, community development and social responsibility. The objective is to transform the most challenged public schools of the Commonwealth. Public LIDER Schools will promote a collaborative synergy between the Public Education System, the school, universities and non-profit entities that enables the exchange of ideas and promotes innovative initiatives in the administration and operation of the schools. The positive experiences and lessons of individuals outside of the System will nourish and improve the educational offerings to students of the public sector.

## **CONCLUSION**

After decades of evaluation of the Puerto Rico Public Education System, we have a clear and in-depth analysis of the problems that limit student learning. The aggressive transformation of the system within the parameters that have been outlined is the proper response to this situation. A strengthened and transformed public education is the engine of development and economic competitiveness for the Commonwealth. Additionally, it is the key to healthy social co-existence and the means to combat the problems affecting the Puerto Rican community. It is a right that the Constitution grants our youth, and it must offer the highest quality possible. The changes set forth in this legislation enable our students to rely on a first-rate public education that allows for the fullest development of their abilities and a better future when they join the workforce.

Faced with the outlook that our education system is confronting and the obligation we have of doing our duty to the Commonwealth inaction is clearly not an option. Maintaining the low performance of a public school not only shatters the future of thousands of children every year, but also degrades us as a society and a people. Puerto Rico will not permit failure in the administration of hundreds of schools to continue unaddressed. There are many entities that can administrate public schools to offer a superior educational experience to the students of Puerto Rico. The worst crime that this generation can commit towards future generations is to keep holding thousands of

children hostage to an obsolete, fossilized, bureaucratized Department. The time to make alliances is now. This Act transforms the Department of Education and opens the doors to the administration of public schools. We are convinced that opening this door will bring order to the existing disorder.

**BE IT DECREED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO**

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This Act will be known as the Alliances in Public Education for the Commonwealth of Puerto Rico Act.

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**CHAPTER I.-GENERAL PROVISIONS**

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By virtue of this Act, it is declared as public policy of the Commonwealth of Puerto Rico that the Puerto Rico Public Education System will be:

- (a) Centered on the student. It will advance the integral development of the students from elementary school up to their entry into post-secondary studies.
- (b) Intelligent. It will promote technological evolution and constant innovation in the teaching methods and school resources utilized in Public Schools.
- (c) Decentralized and democratic. It will safeguard the fiscal, curricular and administrative independence of Public Schools.
- (d) Flexible. It will promulgate the operational flexibility of the System through the implementation of educational and administrative models that respond to the particular needs of each Public School in accordance with its Community and surroundings.
- (e) Transparent. It will disclose all information related to the academic achievement of the students, the use of economic resources and the operation of Public Schools.

(f) Responsible. It will implement a system of evaluation and accountability to measure the academic achievement of the students and the performance of all the components of the System.

(g) Efficient. It will employ the available resources in the most efficient and effective possible manner to achieve a quality education.

(h) Competitive. It will ensure national and international competitiveness and excellence in all its Public Schools.

(i) Participatory. It will integrate members of the Community in decision-making in Public Schools.

(j) Accessible. It will provide equal access to public education for all students.

#### Article 1.04.- Definitions

(a) For the purposes of this Act, the following terms will have the definitions presented below:

(1) Educational Innovation Alliance or Alliance – This refers to an agreement between the Educational Alliances and Innovation Board and: (A) a Certified Educational Entity or (B) a Public School through its LIDER School Board, under the terms of which the Educational Alliances and Innovation Board authorizes the Certified Educational Entity to transform a Public School into a Public LIDER School and/or operate and administrate a Public LIDER School in accordance with specific terms established by this Act.

(2) Community - This refers to the people who live within the geographic area served by a Public School.

(3) LIDER School Board – This refers to the School Board established by Act No. 149-1999, as amended, better known as the Organic Act of for the Department of Education of Puerto Rico.

(4) Municipal Consortium - This refers to the consortiums created under the Autonomous Municipalities Act of the Commonwealth of Puerto Rico, Act No. 81-1991, as amended.

(5) Curriculum - This refers to the study program or plan of a Public School.

(6) School Director - This refers to the Director or Chief Executive of a Public School.

(7) Teaching - This refers to the interaction between teachers and students in the classroom or any other location where lessons are offered.

(8) Certified Educational Entity or CEE - This refers to (i) a public educational entity; (ii) a non-profit educational entity; (iii) an alliance between one or more public educational entities; (iv) an alliance between one or more non-profit educational entities; or (v) an alliance between one or more public educational entities and one or more non-profit educational entities that have been certified and authorized by the Educational Alliances and Innovation Board to operate and administrate a Public LIDER School. For the purposes of the Elementary and Secondary Education Act (ESEA), the No Child Left Behind Act of 2001, and other applicable federal or state laws, a Certified Educational Entity will be considered an alternative educational management organization.

(9) Public Educational Entity - This refers to a municipality, a Municipal Consortium or a public education institution. An educational institution is considered public if: 1) it is directly governed and managed by any governmental authority or agency; or 2) it is operated and administrated by a government agency or by a governing body or board of directors where the majority of members are appointed by the Governor or elected.

(10) Non-Profit Educational Entity - This refers to an organization that is duly incorporated or authorized to conduct business in Puerto Rico by the Department of State as a non-profit entity for educational purposes, and as defined in Section 1101.01(a) of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” and that is exempt from income taxes as set forth in Subsections B and C of Chapter 2, Subtitle A of said Code.

(11) Specialized School - This refers to a Public School that contains innovative special educational programs or projects, or special offerings, as defined and established in Circular Letter No. 17-2013-2014 or any successor law or circular letter.

(12) Public LIDER School - This refers to a Public School, the operation and administration of which has been conceded in accordance with an Educational Innovation Alliance.

(13) Public School - This refers to all schools under the jurisdiction of the Department of Education, including Public LIDER Schools under the jurisdiction of the Educational Alliances and Innovation Board. The term is understood to include, as required in context, the students; the academic component, made up of the teachers, professional teaching support personnel, its School Board and the School Director; the managerial component, made up of administrative personnel, and office and maintenance employees; and the external component, made up of the parents of the students and Community representatives.

(14) Educational Alliances and Innovation Board or Board - This refers to the entity vested with the power to independently and autonomously authorize the transformation

of Public Schools into Public LIDER Schools and/or the administration and operation of Public LIDER Schools.

(15) Government Ethics Act - This refers to Act No. 1-2012, as amended, known as the Government Ethics Act of 2011.

(16) Uniform Administrative Procedure Act - This refers to Act No. 170 of August 12, 1988, as amended.

(17) Federal Act - This refers to the Elementary and Secondary Education Act of 1965 (ESEA), known as Public Law 89-10, 79 Stat. 27, 20 U.S.C, chapter 70, as amended, and its successor laws; and the No Child Left Behind Act of 2001, Public Law 107-110, as amended, and its successor laws.

(18) Core Subjects of the Curriculum - This refers to the common curriculum in Spanish, Mathematics, Science and English.

(18) Puerto Rico Office of Management and Budget (OMB) - This refers to the Puerto Rico Office of Management and Budget created under Act No. 147 of June 18, 1980, as amended.

(20) Teaching Personnel - This refers to the teachers, school directors, librarians, counselors, social workers, and other personnel with technical, administrative and supervisory functions in Public Schools who possess teaching certificates issued in accordance with the law.

(21) Non-Teaching Personnel - This refers to personnel or employees of the Puerto Rico Public Education System not included in the category of “teacher.”

(22) Flexibility Plan - This refers to the ESEA Flexibility Plan of the Puerto Rico Public Education System, submitted to the United States Department of Education on September

10, 2013 and approved on October 22, 2013, and its extensions, as well as any renewal or new agreement that has been submitted and approved after the term of the Act by the United States Department of Education, according to the criteria of the ESEA Federal Act.

(23) Teacher Evaluation and Support Program.- This refers to the comprehensive and systematized program of evaluation and support for the Teaching Personnel of the Puerto Rico Public Education System created in this Act, pursuant to the provisions of the Puerto Rico ESEA Flexibility Plan, for the purposes of periodically measuring the professional function and development of Teaching Personnel, improving the quality of school administration and teaching, and increasing the academic performance and achievement of students in Public Schools. In the case of Teaching Personnel of Public LIDER Schools, the term will include any alternate Teacher Evaluation and Support Program endorsed by the Educational Alliances and Innovation Board and approved by the Secretary, which establishes the parameters of the alternative programs that can be administrated by the Certified Educational Entities for the Teaching Personnel of the Public LIDER Schools they administrate.

(24) School Improvement Grants Program or SIG - This refers to the program of grants for schools under improvement authorized in Section 1003(g) of the Elementary and Secondary Education Act (ESEA) and implemented by the United States Department of Education, effective on November 29, 2010 and published in the Federal Register as School Improvement Grants; American Recovery and Reinvestment Act of 2009 (ARRA); Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, 75 Fed. Reg. 66363 (Oct. 28, 2010), and any other successor program. SIG

Program grants are awarded by the United States Department of Education to jurisdictions that identify schools with low academic achievement in low-income communities and transform them by utilizing one of the intervention models established in the final requirements of the SIG Program.

(25) Proposal - This refers to a proposal submitted to the Educational Alliances and Innovation Board by a Certified Educational Entity or a LIDER School Board for the purpose of receiving an Educational Innovation Alliance to transform a Public School into a Public LIDER School and/or to operate and administrate of a Public LIDER School.

(26) Secretary - This refers to the Secretary of the Puerto Rico Department of Education.

(27) Puerto Rico Public Education System - This refers to the Puerto Rico Public Education System that consists of the Public Schools, including the Department of Education and its Secretary, the Educational Alliances and Innovation Board and Public LIDER Schools.

(28) Applicant - This refers to any entity or alliance which is eligible to become a Certified Educational Entity that submits an application to the Educational Alliances and Innovation Board to become a Certified Educational Entity in accordance with the procedures and criteria established by the Educational Alliances and Innovation Board.

(29) Application - This refers to the documentation submitted by an Applicant to apply for authorization from the Educational Alliances and Innovation Board to become a Certified Educational Entity.

(b) Interpretation - It will be understood that any word or concept used in the singular will also include the plural and vice versa. Also, any concept used in the masculine includes the feminine and vice versa.

**CHAPTER II.- AMENDMENTS TO THE ORGANIC ACT FOR THE  
DEPARTMENT OF EDUCATION OF PUERTO RICO**

Article 2.01.- Subsection (e) is hereby repealed, and a new Subsection (e) and Subsection (f) are added to Section 1.02 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico, to read as follows:

“Section 1.02- Statement of Purpose

(a) ...

...

(d)...

**[(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 follow a general guideline, as provided in this Act, which must give coherence to the System as a whole.**

*(e) This Act does not foresee each school as a universe in itself, unattached to the rest. On the contrary, all the schools are part of the Public School System of Puerto Rico and all follow a general guideline which must give coherence to the education process in Puerto Rico.*

*(f) The interpretation of this Act will be consistent with the provisions set forth in the Act known as the Alliances in Public Education for the Commonwealth of Puerto Rico Act,*

*and capitalized words and terms that are not defined in the text of this Act will have the same meaning as indicated in the Alliances in Public Education for the Commonwealth of Puerto Rico Act.*

*No provision of this Act undermines the authority that the Constitution grants the Secretary to direct public education in Puerto Rico. Even when some administrative functions are transferred from the central level of the Department to the schools in the community, these must follow the norms established by the Secretary for the Public Education System.”*

Article 2.02.- Section 1.03 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 1.03.- Obligatory School Attendance.

(a) *In general.*- School attendance shall be obligatory for *all* students between the ages of five (5) and eighteen (18) years, [**except for those students of high academic standing, gifted students, and those enrolled in any secondary education programs for adults or other programs that prepare them for readmission to regular day schools or those who have taken the high school equivalency exam.**] It is hereby set forth that all students must be enrolled in some type of educational program until they finish high school or its equivalent. [**A child identified as gifted will be given the opportunity to be evaluated and permitted entry into school prior to five (5) years of age. This implies entrance into kindergarten, first or second grade according to the scores of the evaluation and the recommendation of a State-certified specialist. Those students identified as gifted will be offered accelerated alternatives, as well as other**

**services that correspond to their particular needs. Said alternatives and services must be requested and then approved by the parents or guardians of the student.]**

*(b) Gifted students.- A child identified as gifted will be given the opportunity to be evaluated and permitted entry into school prior to five (5) years of age. This implies entrance into kindergarten, first or second grade according to the scores of the evaluation and the recommendation of a State-certified specialist. Those students identified as gifted will be offered accelerated alternatives, as well as other services that correspond to their particular needs. Said alternatives and services must be requested and then approved by the parents or guardians of the student. [It is hereby absolutely prohibited 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) Responsibilities of parents or guardians.- 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 from *five hundred dollars (\$500)* to five thousand dollars (\$5,000) or a term of imprisonment of *up to six (6) months* [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 regulation, 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 administrate the welfare programs are to be notified about the truancy cases, so that they may take action, as provided in this Section.]**

(d) *Regulations for Absences.*- The Secretary shall establish the manner in which to implement the provisions of this section through regulation. *The Department will establish, through regulation, a system for the notification of absences to parents for the purpose of having them comply with the obligation imposed by this Act. The regulation will provide the manner to notify agencies that administrate welfare programs of truancy cases so that they can take the actions set forth in this Article, and a monthly report will be submitted to the Secretary of Justice for evaluation and corresponding action.*

The regulations will *also*:

(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 year.

(2) Establish the procedures the school 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.

(e) *School Dropouts*.- The Secretary will submit an **[annual]** *monthly* “Report on School Dropouts” in Puerto Rico **[starting from August, 2011]**. Said Report will be submitted to the Governor of Puerto Rico, the Legislative Assembly through the Secretary of each Body, *the Secretary of Justice*, and the Statistics Institute of Puerto Rico. In addition, the Report will be available on the website of the Department of Education.

(f) *The Statistics Institute of Puerto Rico*.- The Statistics Institute of Puerto Rico is permanently appointed as the authorized representative of the Department of Education for the purposes of the Department sharing student information with the Institute, including unidentifiable personal information, as defined by the Family Educational Rights and Privacy Act, 20 U.S.C & 1232g and the applicable regulations issued under said legislation, 34 C.F.R. Part 99, including any amendments or other pertinent provisions of federal laws or regulations. As part of this appointment, the Department will be obligated to (i) publish information on its website and (ii) provide the Institute with direct, updated and constant access to the information held in, but not limited to the following databases: the Student Information System (SIS), the Puerto Rican Tests of Academic Achievement (PTAA) databases, the Adult Literacy Program, the CASA, CRECE and CREARTE Projects, and Juvenile Institutions. The “School Dropout Report” will include, but not be limited to the following annual data:

- (1) The total and municipal dropout rates for each grade, from fourth grade to senior year of high school;
- (2) The rate of students who graduated from sixth grade and passed to seventh grade.

- (3) The rate of students who graduated from ninth grade and passed to tenth grade.
- (4) The pass rates of the High School Equivalency Test;
- (5) Information about transfers, expulsions, suspensions and absenteeism; and
- (6) Any other information he/she considers pertinent to the academic progress of the students.

**[The first Report will include the data from the 2009-2010 school year. The second report will include the data for the 2010-2011 and 2009-2010 school years. Beginning with the third Report, data from the most recent school year, and at least two previous years, will be included.]”**

Article 2.03.- Section 2.02 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.02.- Classification of the Schools.

**[Schools]** *Public Schools [are classified] will be classified according to their administrative and operational structure and the level of the courses they offer, that is, as elementary schools, junior high schools, high schools and postsecondary schools. Public Schools can be under the jurisdiction of the Secretary and the Department, or under the jurisdiction of the Educational Alliances and Innovation Board. 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 administrated by directors with equivalent categories.”*

Article 2.04.- Section 2.05 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.05.- Budgetary Savings.

The schools shall retain their budgetary savings, [**with the prior authorization of their school councils,**] and 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 carried out to the detriment to the services rendered to the students and the community.”

Article 2.05.- Subsection 25 is hereby added to Section 2.13 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico. Subsections 18, 19 and 21 of the same Section are also hereby amended to read as follows:

“Section 2.13- School Director- Functions.

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. *The position and functions of the Directors of Public LIDER Schools will follow the terms and conditions of the Educational Innovation Alliances.* Besides the obligations provided in this section and those imposed through regulations, the school director shall have the following functions and duties:

(1) ...

(2) ...

...

(18) Direct the process for evaluating the teaching and administrative personnel of the school *according to the Teacher Evaluation and Support Program established by law* 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 select and purchase the material indicated above. *It is hereby set forth that the School Director will prepare and manage his/her own budget in accordance with Chapter III of the Alliances in Public Education for the Commonwealth of Puerto Rico Act.*”

(20) ...

(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.]** *Select their teaching personnel according to the provisions of this Act, as well as the provisions of Act No. 94 of June 21, 1955, as amended, pertaining to the certification of teachers; Act No. 312 of May 15, 1938, as amended, pertaining to teacher tenure; all regulations adopted under these laws; and all other applicable federal laws and regulations.*

...

(24) ...

(25) *Provide parents with a copy of the scores of the Puerto Rican Tests of Academic Achievement (PTAA) or of any other diagnostic test used by the Puerto Rico Public Education System to measure student academic performance in an itemized format that is accessible and easy to understand within a term no later than one (1) month after the official scores have been published. In addition, he/she will hold an assembly at the beginning of each school semester to discuss the scores with parents.*”

Article 2.06.- Section 2.15 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.15- School Director- Evaluation of performance.

The Director shall hold office for an unspecified period, but his/her performance shall be subject to **[periodic]** *annual* evaluations **[by the Secretary and the school board]** *in accordance with the Teacher Evaluation and Support Program established by law. [The evaluations shall be made according to the procedure established by the Secretary, through regulations.]* *The position and functions of the Directors of Public LIDER Schools will follow the terms and conditions of the Educational Innovation Alliances.*”

Article 2.07.- Subsection (a) of Section 2.16 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.16- School Director- Grounds for removal from office.

The Secretary, after a hearing to such effect, **[may]** *must* 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.]** *An evaluation report stating “does not meet expectations,” pursuant to the Teacher Evaluation and Support Program established by law.*

(b) ...

(c) ...

(d) ...

(e) ...

...”

Article 2.08.- Section 2.17 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.17- Designation of Deputy Director.

**[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.]** *All Public Schools will have a Deputy Director to assist the Director in carrying out administrative duties. The Deputy Director will possess at least five (5) years of professional experience in teaching or administration,*

*and will be accredited as a school administrator. The Deputy Director will carry out the directing duties of the School when the Director is away, on leave or, for any reason, unable to carry out said duties.”*

Article 2.09.- Section 2.19 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.19.- The School Board- Composition.

Each school will have a School Board, *which shall be made up of at least nine members.*

Within this Board shall be represented **[the four components of the school in the manner provided for by the regulation issued by the Secretary]** *the parents, students and representatives of the community in which the school is located, in the following manner: the Director of the school, two (2) teachers chosen by a majority of votes of the faculty that makes up the school, three (3) parents or legal guardians of students enrolled in the school, chosen by a majority of votes of the faculty or legal guardians of the school, one (1) student, chosen by the majority vote of the students of the school, and two (2) leaders of the community, chosen by the majority vote of the parents or legal guardians of the school, and who should be businessmen or businesswomen, ex-professors or have academic preparation or experience relative to educational administration or of another nature. [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 teaching personnel shall always be a majority.]* The Directors shall not preside the School Boards; they will have a voice and a vote in its deliberations and, as chief executives of the school, shall implant

the agreements that said organisms adopt with regards to matters within their jurisdiction.”

Article 2.10.- Section 2.20 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.20.- The School Board—Organization and functioning.

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 *or of any external entity, such as a university or a non-profit organization. In like manner, the LIDER School Board shall be able to enter into agreements with these entities.*”

Article 2.11.- Article 2.21 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 2.21.- The School Board—Functions.

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**] *To advise and assist in the crafting of the school budget and oversee the disbursement and use 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; 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]** *Chief Financial Officer*.
- (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. To advise the Director on any other matter relating to the school.

The Board 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.
- (d) *Furthermore, the School Board will be able to submit proposals for the transformation of the school into a Public LIDER School as part of the application process established in Chapter V of the Alliances in Public Education for the Commonwealth of Puerto Rico Act.*”

Article 2.12.- Section 3.07 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 3.07.- Promotion of Students.

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

- (a) The study program corresponding to *the Core Subjects of the Curriculum* for each grade and level of the System *for the Public Schools that are not Public LIDER Schools, the rest of the study program corresponding to each grade and level of the System.*
- (b) ...
- (c) ...

(d) Promotion of students from one grade or level to another. *It is hereby set forth that under no circumstances can a student of the Puerto Rico Public Education System who fails to pass a Core Subject of the Curriculum be promoted to the next grade or level. Non-compliance with this provision will result in the removal of the responsible official by the Secretary or the person he/she appoints.*

(e) ...

**[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.]”**

Article 2.13.- Section 3.13 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 3.13- Return of books, computers, and other school material or equipment.

*(a) Access to books.* 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]**. *Students will be allowed to take home books and materials authorized by the school that they might need to study and do their homework during the school year. The Secretary will establish rules and regulations for this purpose, which will include compensation or reimbursement in case*

*of intentional conduct or negligence of the parents and/or students resulting in the need to repair, restore or replace books and materials.*

**[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.]**

*(b) Access to technology – The Secretary or the person he/she appoints will establish mechanisms through which, within thirty (30) days after the passing of this Act, the following processes of requesting proposals and bidding are to begin:*

*(1) Pertaining to Public Schools not directly under the Educational Alliances and Innovation Board as set forth in Article 5.04 of the Alliances in Public Education for the Commonwealth of Puerto Rico Act, for the purchase of electronic books or access to educational contents through digital platforms, programs or instruments;*

*(2) Pertaining to Public Schools that have not been selected for consolidation as set forth in Article 4.05 of the Alliances in Public Education for the Commonwealth of Puerto Rico Act and by regulation, for the modernization of classrooms through Internet or Wi-Fi access and the creation of spaces that integrate technologies and promote suitable environments for learning, collaborative work and the intensive use of information technologies and digital media, known as learning commons; and*

*(3) For the creation of an integrated website where parents and students can access academic records, as well as electronic material distributed by teachers.*

*(c) The Secretary will see to it that all Public Schools have access to the Internet and that all Public Schools not directly under the Educational Alliances and Innovation Board as set forth in Article 5.04 of the Alliances in Public Education for the Commonwealth of Puerto Rico Act have digital educational material for all their students. If he/she fails to comply with the provisions of this subsection within one (1) year from the term of this Act, the Department of Education will be fined at a rate of one thousand dollars (\$1,000) per day so long as 100% of the schools are not in compliance with said provision.”*

Article 2.14.- Section 4.03 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 4.03.- Incentives for excellence.

The Secretary shall establish through regulations an incentive system so as to retain the most qualified teachers with the highest performance in Public School classrooms. These incentives may be awards, special acknowledgments, sabbatical leave, cultural travel, bonuses *funded by the Educational Fund created by law* and other distinctions bestowed to highlight the value of teachers and the teaching endeavors. *In the case of teachers of Public LIDER Schools, they will also be eligible to receive bonuses from the Fund for the Recognition of Educational Compliance in accordance with the parameters established by the Educational Alliances and Innovation Board. In addition, the Educational Alliances and Innovation Board will allow, as part of the Educational Innovation Alliances of the Public LIDER School, additional incentives that Certified Educational Entities may offer to recruit and retain in the classrooms of Public LIDER Schools the best qualified and highest performing teachers of schools administrated by said entities.”*

Article 2.15.- Section 4.08 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 4.08- Continuing education.

The Secretary shall establish continuing education programs for the teaching and non-teaching personnel of the Department. *In addition, he/she will offer training to teachers so they can identify gifted students in accordance with the parameters that the Department develops for said purposes. All of the System’s teaching personnel, including the teaching personnel of Public LIDER Schools, must complete at least six (6) credits of continuing education per semester. These credits must be administered outside of classroom hours. The Secretary will be obligated to establish, through regulation, the specifics of these programs, including but not limited to, the number of credits, the preparation of resources and the penalties for non-compliance. In the case of Teaching Personnel of Public LIDER Schools, the Educational Alliances and Innovation Board will recommend, for approval by the Secretary, a set of regulations that establish the parameters of alternative programs that can be administrated by the Certified Educational Entities for the Teaching Personnel of the Public LIDER Schools they administrate. Notwithstanding, Certified Educational Entities will have the right to choose, as part of the Educational Innovation Alliances, whether the Teaching Personnel of the Public LIDER Schools they administrate under said Alliance is to participate in the continuing education program administrate by the Secretary.*

...”

Article 2.16.- Section 4.09 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 4.09 [**Evaluation of Teachers**] *Teacher Evaluation and Support Program.*

**[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.]**

*(a) In general.- A comprehensive and systematized evaluation and support program for the Teaching Personnel of the Puerto Rico Public Education System is hereby created, in accordance with the provisions of the ESEA Flexibility Plan for Puerto Rico and any successor laws, for the purpose of periodically measuring the professional functioning and development of the Teaching Personnel, improving the quality of school instruction and administration, and increasing the academic achievement and performance of Public School students. For the purposes of the Teacher Evaluation and Support Program, Teaching Personnel will be considered the teachers and School Directors of schools of the Puerto Rico Public Education System. The Secretary, or the officials to whom he/she delegates, will establish, through regulation and using the current applicable regulations, as amended, and no later than sixty (60) days after the approval of this Act, the necessary evaluation and support method and processes for complying with the*

*provisions of this Act. In the case of the Teaching Personnel of Public LIDER Schools, the Educational Alliances and Innovation Board will recommend, for approval by the Secretary, a set of regulations for an alternative Teacher Evaluation and Support program for Public LIDER Schools that complies with the Flexibility Plan (or any successor norm), and with the principles of Subsection (b) of this Article 4.09. Notwithstanding, to the extent permitted by the Flexibility Plan, the alternative Teacher Evaluation and Support program of Public LIDER Schools can give greater weight to the performance of the Certified Educational Entity under the terms and conditions of their Educational Innovation Alliances in accordance with the criteria set forth in Article 5.12 of this Act.*

*(b) Principles of the Program.- The Teacher Evaluation and Support Program of the Puerto Rico Public Education System created in this Act must comply with the following principles:*

- (1) Promote the use of effective pedagogical methods that advance the academic growth of students;*
- (2) Utilize diagnostic and formative evaluation processes that provide information for continually directing and improving the teaching profession and the quality of instruction in the schools;*
- (3) Utilize the criteria and professional standards set forth by law in the Teacher Evaluation and Support Program to measure the effectiveness of Teaching Personnel;*
- (4) Provide trainings in the evaluation and support system created in this Act to ensure that the evaluator, as well as the evaluatee recognize and understand the proper use of this program, its purpose, its consequences and its respective processes;*

(5) *Establish regular evaluations with differentiated cycles for new teachers and School Directors, and teachers and School Directors with experience;*

(6) *Utilize a rating scale in the evaluations that consists of the following four (4) levels of performance:*

(A) *Exceeds expectations - This will mean that the evaluated teacher or Director obtained a score between one hundred percent (100%) and ninety-five percent (95%) on the evaluation, thereby demonstrating a professional performance that exceeds the expectations associated with each criterion or standard included in the evaluation;*

(B) *Meets expectations - This will mean that the evaluated teacher or Director obtained a score less than ninety-five percent (95%) and greater than eighty percent (80%) on the evaluation, thereby demonstrating an adequate professional performance according to the expectations associated with each criterion or standard included in the evaluation.*

(C) *Partially meets expectations - This will mean that the evaluated teacher or Director obtained a score less than eighty percent (80%) and greater than seventy percent (70%) on the evaluation, thereby demonstrating a professional performance that partially satisfies the expectations associated with each criterion or standard included in the evaluation; and*

(D) *Does not meet expectations - This will mean that the evaluated teacher or Director obtained a score under seventy percent (70%) on the evaluation, thereby demonstrating significant deficiencies in the expectations associated with each criterion or standard included in the evaluation.*

(7) *Provide recommendations and professional development opportunities that align with the evaluation scores of each evaluated teacher and Director;*

*(8) Utilize the evaluation scores to base the personnel of decisions that the Secretary makes regarding the recruitment or removal of Teaching Personnel in Public Schools, in compliance with what is established in this Act; and*

*(9) Include periodic monitoring and reevaluation processes regarding the effectiveness of the program, and the evaluation criteria or standards utilized and established in this Act.*

*It is hereby set forth that tenured teachers and School Directors will be evaluated at least once (1) a year, while teachers and School Directors without tenure will be evaluated twice (2) a year. School Directors, with the support of and in coordination with the personnel designated by the Secretary, will be responsible for evaluating the teachers under his/her direct supervision. School Directors will be evaluated by the personnel designated by the Secretary.*

*(c) Criteria for Teacher Evaluation.- The Secretary, or the officials to whom he/she delegates, will use the Puerto Rico Professional Standards for Teachers (2008) and the Puerto Rico Department of Education Profiles of School Directors as guidelines to develop the content of the Puerto Rico Teacher Evaluation and Support Program and to evaluate the alternative plan recommended for Public LIDER Schools by the Educational Alliances and Innovation Board. Evaluations of teachers and Directors must measure and be based on the following professional criteria and standards:*

*(1) Academic achievement and performance of the students - Twenty percent (20%) of the evaluation administered to the teachers must be based on the academic achievement and performance of their students. This percentage of the evaluation is divided as follows:*

*(A) Fifteen percent (15%) of the evaluation will be based on their students' academic growth as demonstrated by their scores of the Puerto Rican Tests of Academic*

*Achievement (PTAA) over the last three (3) years, as administered by subject and grade, or on any other standardized test utilized by the Public Education System to measure the students' academic growth and achievement.*

*(B) Five percent (5%) of the evaluation will be based on their students' grades in each Core Subject of the Curriculum;*

*(2) Knowledge of academic subject - Teachers must be evaluated on their knowledge and understanding of the concepts, processes and skills inherent to the subject(s), level(s) or grade(s) they teach. Additionally, they must be evaluated according to the manner and effectiveness with which they impart their knowledge about the subject(s) they teach, according to the level(s) or grade(s) they teach;*

*(3) Knowledge of teaching - Teaching Personnel must be evaluated on the way in which they address and respond to their students' individual differences and special needs, and on the way in which they apply philosophical, psychological and sociological principles of education to teaching and learning in the school and in the classroom;*

*(4) Learning environment - Teaching Personnel must be evaluated on the learning environment that they create and develop in the classroom and in the school. The learning environment must be a motivating one where respect, safety and equality toward all the students prevail;*

*(5) Diversity and special needs - Teaching Personnel must be evaluated on their knowledge and understanding of the fundamental aspects of special education, while not necessarily being specialists in the area, and the application of these aspects in the school and in the classroom to provide their students with reasonable accommodations, if necessary;*

*(6) Evaluation and assessment - Teaching Personnel must be evaluated on the techniques and instruments they use to assess the knowledge and skills they impart to the students in the classroom, by subject and by level or grade. Said assessment techniques and instruments must address the objectives of the course they teach and the development of curricular standards and expectations;*

*(7) Integration of technology - Teaching Personnel must be evaluated on the way in which they integrate technology into the school and classroom, thereby creating environments that are favorable to student learning and personal development;*

*(8) Communication and language - Teaching Personnel must be evaluated on their proficiency in the use of language and communication skills, both oral and written;*

*(9) Family and community - Teaching Personnel must be evaluated on the way in which they utilize and involve student family and community members as learning resources. The feedback of the parents of students under their supervision will be taken into account during the evaluation of teachers and Directors;*

*(10) Professional development - Teaching Personnel must be evaluated on their efforts to find new and better alternatives to address the emerging needs of their students and their development as professionals.*

*(11) Attendance - Teaching Personnel must be evaluated on their school and the classroom attendance and the impact of their attendance or absence on the academic performance and growth of their students;*

*(12) Peer evaluation - Teaching Personnel must be evaluated by peer faculty members and members of the School Board based on their performance in the classroom and their interpersonal relationships with members of the community; and*

*(13) Any other criteria that the Secretary deems necessary for the comprehensive evaluation of the Teaching Personnel.*

*(d) Evaluation Results and Consequences.- Thirty (30) days after administering the evaluation to the Teaching Personnel, the evaluator, whether the School Director, in the case of teacher evaluation, or the personnel designated by the Secretary, in the case of School Director evaluation, will present and discuss the evaluation scores with the evaluatee. The evaluatee can write a response to this evaluation if he/she has any reaction to the evaluation scores; said response will be incorporated as an attachment to the evaluation. After discussing the evaluation scores with the evaluatee, the evaluator will present a report with the evaluation scores to the Secretary or to the Educational Alliances and Innovation Board, in the case of Public LIDER Schools. For evaluations submitted to the Secretary, he/she will use the evaluation scores of teachers and Directors to inform decisions on the recruitment or removal of the Teaching Personnel of the System.*

*(1) The teachers or Directors with evaluation scores that demonstrate that they “exceed expectations,” as set forth in this Act, will be recognized by the Puerto Rico Department of Education as a teacher or Director of excellence and receive a salary bonus based on their performance for the corresponding school year. The teachers and Directors who “exceed expectations” will lead the professional development activities conducted by the Secretary and serve as mentors to their colleagues.*

*(2) The teachers or Directors with evaluation scores that demonstrate that they “meet expectations,” as set forth in this Act, must develop an individualized Professional Development Plan with the School Director, and/or the personnel designated by the*

*Secretary, that identifies and addresses the areas for improvement in their evaluation. The teachers and School Directors that “meet expectations” must participate in professional development activities conducted by the Secretary and the mentoring program developed at the school where they work.*

*(3) The teachers or Directors with evaluation scores that demonstrate that they “partially meet expectations,” as set forth in this Act, must develop an individualized Professional Development Plan with the School Director, and/or the personnel designated by the Secretary, that identifies and addresses the areas for improvement in their evaluation. The teachers and School Directors who “partially meet expectations” will have two (2) years to address, correct and demonstrate improvement in the deficient areas of their evaluation, with the help and support of their school.*

*(4) The teachers or Directors with evaluation scores that demonstrate that they “do not meet expectations,” as set forth in this Act, must develop an individualized Professional Development Plan with the School Director, and/or the personnel designated by the Secretary, that identifies and addresses the deficiencies in their evaluation. The teachers and School Directors who “do not meet expectations” will have one (1) year to address, correct and demonstrate improvement in the areas of deficiency on their evaluation, with the help and support of their school. If they do not demonstrate improvement in the following evaluation and do not meet expectations again, the teachers or Directors must be removed from their position.*

*(e) Disclosure of Information about the Program.- The School Directors and personnel designated by the Secretary must annually report the scores of the evaluations of teachers and School Directors to the Secretary or to the Educational Alliances and*

*Innovation Board, as applicable, for the corresponding evaluation and action. Ninety (90) days after the approval of this Act, the Secretary must present a report to the Governor and the Legislative Assembly detailing the state of approval and implementation of the Teacher Evaluation and Support Program in all Public Schools. The Secretary must present the Governor and the Legislative Assembly, and publish on the Department of Education website, on or before July 1<sup>st</sup> of each year following the first year that this Act takes effect, a report that includes:*

- (1) The state of implementation of the evaluation and support system established by the public school and any change or revision approved by the school; and*
- (2) The evaluation scores of Public Schools for the corresponding school year.*

*(f) Budget for the Program.- The Puerto Rico Office of Management and Budget will allocate an annual amount as a specific line item in the budget of the Puerto Rico Department of Education for the operation and functioning of the Teacher Evaluation and Support Program created in this Act and the cost of the Program will be considered as an administrative expense as defined in Article 3.03 of the Alliances in Public Education for the Commonwealth of Puerto Rico Act.”*

Article 2.17.- Section 4.11 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 4.11- **[Volunteer Citizens]** *Volunteer and Substitute Work.*

**[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 addition, prior to offering their services, the Secretary will require volunteers to present a certificate of good conduct that proves that they have not been convicted of any crime and a certificate that proves that they are not listed in the Sex Offenders Registry of Puerto Rico, the United States of America, its states and territories.]**

*(a) In general.- All Public Schools must have a registry of at least five (5) volunteer citizens to render teaching and non-teaching services at said schools, including but not limited to:*

- (1) substituting teachers who are absent from their classes; and*
- (2) performing teaching functions during extended school hours.*

*(b) Requirements.- Volunteer citizens can be parents of students in the school, university students, retired teachers or citizens with preparation and experience consistent with the services they will provide for the school. Every School Director will establish, through regulation, the procedures set forth in this Article.*

*(c) Functions.- Volunteer citizens in Public Schools will have the following functions:*

- (1) Be familiarized with the vision, mission, structure, curriculum, rules and regulations of the Public School they serve;*
- (2) When substituting an absent teacher:*
  - (A) Coordinate the material to be discussed in class during the absence of the teacher;*
  - and*

*(B) Carry out the responsibilities of the teacher in the classroom.*

*(3) When participating in extended hours offerings:*

*(A) Coordinate with the School Director the offering in which they want to participate and the function that they will perform; and*

*(B) Any other teaching or non-teaching function established by the School Director through regulation.*

*(d) Procedure.- All eligible citizens who wish to participate as volunteers in a Public School will adhere to the following process prior to offering their services:*

*(1) Fill out the volunteer citizen application form promulgated by the School Director pursuant to the provisions of this Section;*

*(2) Interview with the School Director for the position;*

*(3) Sign a binding document detailing the specific responsibilities and functions that they will perform as a volunteer citizen at the school;*

*(4) Submit a certificate of good conduct that proves that they have not been convicted of any crime;*

*(5) Submit a certificate that proves that they are not listed in the Sex Offenders Registry of Puerto Rico, the United States of America, its states and territories;*

*(6) Attend the orientation for volunteer citizens established by the School Director together with the School Board; and*

*(7) Any other procedures established, through regulation, by the School Director.*

*(e) In exercising their functions, volunteers in Public Schools will be covered by the State Insurance Fund health and hospitalization plan and protected under Act No. 104 of June 29, 1955, as amended, known as the Claims and Complaints Against the State Act.*

Article 2.18.- Section 5.01 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 5.01- Composition.

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, the *Educational Alliances and Innovation Board* and the dependencies of the Department providing school lunchroom and printing services, or other supportive services to the system.”

Article 2.19.- Subsection (a) of Section 6.04 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 6.04.- Administrative duties and obligations.

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

(a) *Designate the Chief Financial Officer of the Department of Education who will [Adopt] adopt a budgetary formula [to determine the budget] per student as established by law for the schools in the Public Education System and exercise all other powers and comply with the duties set forth by the Alliances in Public Education for the Commonwealth of Puerto Rico Act. [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)...

(c)...

...

(z)..."

Article 2.20.- Subsection (k) of Section 9.01 of Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico is hereby amended to read as follows:

“Section 9.01.-Definitions.

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

(a)...

(b)...

...

(k) Evaluation.- Procedure **[to appraise the performance of the school teaching and non-teaching personnel for the purposes established in this Act]** *to measure and oversee the performance of teachers and School Directors in accordance with the Teacher Evaluation and Support Program established in this Act. The Secretary will establish, through regulation, the procedure for evaluating the performance of non-teaching personnel.*

(l) ...

...

(s)..."

### **CHAPTER III.- FINANCING OF THE EDUCATION SYSTEM**

### 3.01.- General Provisions for the Budgetary Process of the Puerto Rico Public Education System

The Director of the Office of Management and Budget will include in the recommended General Budget of Expenses of the Commonwealth of Puerto Rico for each fiscal year an allocation of sufficient funds to the Department of Education for the administration and functioning of the Public Education System, and to comply with the public policy set forth in this Act. The Chief Financial Officer of the Department of Education will distribute the allocation approved in the Joint Resolution of the General Budget of Operating Expenses of the Commonwealth of Puerto Rico, as set forth in this Chapter.

### Article 3.02.- Establishment of a Budgetary System for Public Schools

(a) The Secretary of Education will appoint a Chief Financial Officer for the Department of Education. This person will have the duties and responsibilities typically associated with said position, including but not limited to:

(1) Establish the conditions for the design, development and implementation of operational mechanisms or instruments to optimize the finances of the Puerto Rico Public Education System, its impact on the public finances of the Commonwealth of Puerto Rico and recommend the adoption of measures that contribute to its improvement, including but not limited to the implementation of modules missing from the computerized finance system of the Department of Education to integrate it with payroll and improve the integration of the budgetary and project management modules;

(2) Maximize the use of federal funds by the Puerto Rico Public Education System through, among other things, the identification of new opportunities for the efficient participation and use of said resources;

(3) Exponentially increase the availability and accounting of public funds and other resources of the Puerto Rico Public Education System according to the generally accepted principles of accounting, respecting the competency and responsibility of the Educational Alliances and Innovation Board and each Public School;

(4) Establish norms that direct cash programming at all levels of the Puerto Rico Public Education System;

(5) Evaluate the treasury management of the Department of Education, the Educational Alliances and Innovation Board and each Public School;

(6) Provide for the implementation measures to follow-up and verify the state and use of the financial resources of the Department of Education, including the design and establishment of auditing systems to regularly establish the legality of disbursements and personnel processes of the Department of Education, the Educational Alliances and Innovation Board and the Public Schools;

(7) Deliver to the Office of Management and Budget, within the first forty-five (45) days of the close of each fiscal quarter, an accounts payable ledger of the Department of Education, prepared according to generally accepted principles of accounting, organized in chronological order by the intervals of time that have elapsed since said accounts were created (e.g. 30 days, 30 to 60 days, etc.), and identifying the origin of the incurred expense; and

(8) Any other duty or responsibility established by law.

(b) The Chief Financial Officer of the Department of Education will be a professional who meets at least one of the following requirements: (1) possess a university degree from an accredited institution, with a major in Accounting, Finance or Business

Administration; (2) possess a Master of Business Administration (MBA) degree from an accredited institution; or (3) be a Certified Public Accountant (CPA).

(c) Annually, the Chief Financial Officer of the Department of Education, in coordination with the Office of Management and Budget, must prepare and submit to the Legislative Assembly a budget request for the Department of Education that complies with the requirements of this Act. Said budget request must clearly identify the needs of the Public Schools, the Educational Alliances and Innovation Board and the Department of Education for carrying out the public policy established in this Act.

(d) Each Public School must: (1) have a treasurer with professional university preparation, as well as a level of knowledge and experience compatible with the exercise of said function, who will report to the Chief Financial Officer; (2) have a treasury and budget system in compliance with the requirements established in this Act; (3) deliver to the Chief Financial Officer, within the first thirty (30) days of the close of each fiscal quarter, an accounts payable ledger of the Department of Education prepared according to generally accepted principles of accounting, organized in chronological order by the intervals of time that have elapsed since said accounts were created (ex. 30 days, 30 to 60 days, etc.), identifying the origin of the incurred expense, and certifying that said accounts to be paid were incurred within the discretionary use of funds authorized by the Chief Financial Officer; (4) give the Chief Financial Officer access, in the formula he/she decides, to the information pertaining to all the funds he/she administrates. In addition, each Public School must present a proposed budget to the Chief Financial Officer, on the date he/she decides, in accordance with the parameters established in this Chapter.

Article 3.03.- Administrative Expenses

(a) In general – The Department of Education can only use up to fifteen percent (15%) of the aggregate items that correspond to the Puerto Rico Public Education System, in accordance with the Joint Resolution of the General Budget of Operating Expenses of the Government of Puerto Rico for its own Administrative Expenses, as defined below, and for those of the Secretary. The remainder of said budgetary allocation to the Department of Education will be distributed to Public Schools in accordance with what is set forth in Article 3.04.

(b) Transitional Provision – Notwithstanding Subsection (a) of this Article 3.03, during the fiscal years listed below, the Department of Education can use, for its own Administrative Expenses and for those of the Secretary, an amount not to exceed the percentage of the aggregate items that correspond to the Puerto Rico Public Education System, in accordance with the Joint Resolution of the General Budget of Operating Expenses of the Government of Puerto Rico that appears opposite said fiscal years:

(1) 2016-2017 Fiscal Year = 25%

(2) 2017-2018 Fiscal Year = 20%

(c) The Chief Financial Officer and the Director of the Office of Management and Budget will determine which expenses constitute “administrative expenses” and publish a breakdown to such effect, under the title “Administrative Expenses.” For the purposes of this Article, “administrative expenses” will include school food and transportation expenses for all Public Schools, as well as the cost of the Teacher Evaluation and Support Program. Annually, the Director of the Office of Management and Budget must certify to the Legislative Assembly the compliance by the Department of Education with this Article.

Article 3.04.- Allocation of Funds to Public Schools

(a) The remainder of the funds allocated annually to the Puerto Rico Public Education System in accordance with the Joint Resolution of the General Budget of Government Operating Expenses of Puerto Rico after deducting: (1) Administrative Expenses as set forth in Article 3.03 of this Act; (2) five percent (5%) of the budget for the Educational Fund, as set out in Article 3.08 of this Act; and (3) the aggregate amount determined by the Chief Financial Officer, if any, necessary to compensate the Public Schools for Additional Cost Factors will be distributed among each Public School in the manner set forth in this Article 3.04, and will be called the “Global School Budget.”

(b) The amount of the budget of the Department of Education to be assigned to each Public School will be equivalent to the sum of: (1) the Base School Budget (as defined below) corresponding to said Public School; and (2) an additional amount determined by the Chief Financial Officer, if any, taking into consideration the Additional Cost Factors (as defined below) applicable to said Public School. In case that the actual enrollment of a Public School is greater or less than that used to estimate the Base School Budget for said Public School, the Base School Budget will be adjusted to reflect the actual enrollment of the Public School. Each Public School will receive matching federal funds for eligible expenses in the budget of the Department of Education assigned to said Public School.

(c) Base School Budget - The “Base School Budget” of each Public School will be the product of: (a) Base Budget per Student, as defined below multiplied by (b), the Estimated Enrollment of the School corresponding to said Public School as estimated and certified by the Chief Financial Officer, according to the following procedure:

(1) As part of the annual budgetary process of the Commonwealth of Puerto Rico, each Public School must inform the Chief Financial Officer of the estimated enrollment for said fiscal year using as a base the number of students enrolled at the school during the current school year. Based on said estimates, the Chief Financial Officer will make his/her own estimate for the enrollment of each Public School during the school year that is under budget consideration. The estimate for each Public School will be called the “Estimated School Enrollment” and the aggregate number of all the estimated students to be enrolled in all Public Schools will be called the “Total Number of Estimated Students;”

(2) Once the Total Number of Estimated Students is determined, the same will be used as the base for determining the “Base Budget per Student.” The “Base Budget per Student” will mean the amount resulting from the division of: (i) the Global School Budget by (ii) the Total Number of Estimated Students;

(3) As part of the budgetary process of the Commonwealth of Puerto Rico, the Chief Financial Officer must annually certify to the Legislative Assembly the Budgetary Base per Student projected for the fiscal year under consideration.

(d) Determination of Additional Cost Factors.- If justified, the budget of any Public School can be increased by the Chief Financial Officer using the following cost factors for said Public School:

(1) Basic Programs;

(A) Pre-Kinder to 3<sup>rd</sup> Grade (Elementary);

(B) 4<sup>th</sup> to 8<sup>th</sup> Grade (Intermediate)

(C) 9<sup>th</sup> to 12<sup>th</sup> Grade (Secondary)

- (2) Extraordinary Programs;
- (3) Special Education;
- (4) Number of students per classroom;
- (5) Condition of the physical facilities;
- (6) Vocational Programs;
- (7) Specialized Programs;
- (8) Poverty level; and
- (9) Any other factor that the Chief Financial Officer determines.

The Chief Financial Officer cannot discriminate against Public LIDER Schools, and will use objective criteria and make every effort to achieve comparable parity among Public Schools when allocating funds based on Additional Cost Factors.

#### Article 3.05.- Insufficiency of Funds

In the case that the assigned amount in accordance with Subsection (b) of Article 3.04 of this Act results insufficient for covering the expenses of a specific Public School, the Secretary must provide an expeditious procedure for consolidating said school with another Public School in accordance with Chapter IV of this Act, thus promoting the budgetary and administrative efficiency of the Puerto Rico Public Education System.

#### Article 3.06.- Budgetary Transparency

(a) Each Public School must publish each proposed budget to be submitted to the Chief Financial Officer for public knowledge in a simple and easy to understand format, and hold at least one (1) local public hearing carried out by its School Board to evaluate the same before being submitted to the Chief Financial Officer, in accordance with Article 3.02. As soon as the proposal is approved for said Public School by the School Board, the

Public School must publish the approved budget for public knowledge in a simple and easy to understand format, and hold at least one (1) local public hearing carried out by its School Board to evaluate its implementation.

(b) As part of the principle of budgetary transparency, the Secretary must publish, on a yearly basis, the following information on the Department website:

- (1) Schedule of the budget hearings of each Public School;
- (2) All collective bargaining agreements, or any other agreements, reached with teachers;
- (3) An itemized list of the annual budget allocation per student and school, as set forth in this Chapter; and
- (4) Any other information that he/she deems pertinent.

#### Article 3.07.- Disbursement of Funds

(a) Disbursements to the Puerto Rico Department of Education – Pursuant to this Chapter, payments will be made to the order of the Puerto Rico Department of Education for Administrative Expenses.

(b) Disbursements to Public Schools – Disbursements to Public Schools will be made in advance on a quarterly basis, as set forth in this Chapter, except for payroll payments, which will be made directly to the Treasury Department.

(c) Disbursements to Public LIDER Schools.- Disbursements to Public LIDER Schools will be carried out as agreed upon in the pertinent Alliance.

#### Article 3.09.- Educational Fund

(a) Creation – The Educational Fund is hereby created under the sole administration of the Secretary.

(b) Allocation of Funds – The Puerto Rico Office of Management and Budget will allocate five percent (5%) of the total budget annually allocated to the Department of Education for the Educational Fund. Said Fund can also receive donations and resources from the community, and for- or non-profit entities for the purposes of enhancing education, and will not be subject to Act No. 57 of June 19, 1958, as amended.

(c) Uses – The Secretary will establish, through regulation, that the Fund will be used as follows:

(1) Allocation of additional funds to outstanding schools – Seventy-five percent (75%) of the funds allocated annually to the Educational Fund will be distributed among the Public Schools in the highest twenty-fifth percentile of all Public Schools based on the greatest demonstrated annual academic growth, according to the standardized achievement tests administered in all Public Schools. This additional allocation of funds can be used by said Public Schools to improve the physical facilities, coordinate educational activities for the students, purchase additional educational materials, and any other purpose established by the Secretary. The Secretary will develop, through regulation, a methodology for the allocation of said additional funds.

(2) Bonus system for outstanding Directors and Teachers – Twenty-five percent (25%) of monies deposited annually in the Educational Fund will be used to create a bonus system for outstanding Directors and Teachers who, after due evaluation, can be considered mentors. The Secretary will develop, through regulation, a methodology to establish said bonus system, which will allow directors and teachers of Public LIDER Schools to participate in said bonus system according to the criteria established by the Educational Alliances and Innovation Board.

## **CHAPTER IV.- PROCEDURE FOR THE DEMOGRAPHIC ADJUSTMENT OF PUBLIC SCHOOLS IN PUERTO RICO**

### Article 4.01.- Declaration of Purpose of this Chapter

The Government of the Commonwealth of Puerto Rico is committed to its Constitutional obligation to make more efficient and effective the operation, administration and distribution of resources in the Puerto Rico Public Education System, so as to improve the quality of teaching and the academic performance of all students. To that effect, and in order to reduce government spending as an initiative of sound public administration policy to attend to Puerto Rico's current economic and fiscal situation, this Legislative Assembly deems necessary the establishment of an organized, independent and objective process for the demographic adjustment for the optimal use of the Public Schools. Said process will be governed by a formula that will determine the maximum number of Public Schools that may operate in Puerto Rico and by the orders and recommendations of the Office of Management and Budget (OMB), which will be in charge of establishing in an independent manner objective, fair and reasonable criteria for the identification of schools to be consolidated according to the formula. The Legislative Assembly deems it necessary that the community be involved in the school consolidation processes. This Act provides for community participation in said processes before decisions on the availability of a school or the use of excess space are made, in order to avoid community conflicts, ensure that all the needs and concerns of the school community are addressed, and ensure that the use of the physical plant is compatible with the needs and desires of the community.

Article 4.02.- Establishment of the Procedure for the Demographic Adjustment of Public Schools in Puerto Rico

(a) In general.- A procedure for the Demographic Adjustment of Public Schools in Puerto Rico, directed by the Chief Financial Officer in coordination with Office of Management and Budget, is hereby established to determine the maximum number of Public Schools that may operate in Puerto Rico, and to identify the schools to be consolidated according to the formula and to the objective, fair and reasonable criteria established in this Act. By virtue of this Act, the Secretary of Education will be required to comply with the recommendations and decisions resulting from said procedure, directed by the Chief Financial Officer in coordination with Office of Management and Budget.

(b) Functions.- The Chief Financial Officer and the Office of Management and Budget will have the following powers and duties to comply with the provisions of this Chapter:

- (1) Determine, using the formula established in Article 4.04 of this Chapter, the maximum number of Public Schools that may operate in Puerto Rico;
- (2) Establish objective, fair and reasonable criteria to identify the Public Schools to be consolidated, according to the formula established in Article 4.05 of this Act;
- (3) Require and examine all the necessary information pertaining to the fiscal, operational, academic, and administrative profile of the Puerto Rico Public Education System, including information on each public school, from the Department of Education;
- (4) Submit to the Governor, the Secretary of Education and the Legislative Assembly, on or before the end of the government budgetary process for the 2016-2017 Fiscal Year, a Report on the Demographic Adjustment of Public Schools, as provided in Article 4.06 of this Chapter;

(5) Require compliance with all its rules, regulations and orders, including judicial remedies, if necessary; and

(6) Adopt the rules, declarations, orders and regulations necessary to comply with its powers and duties in accordance with Act No. 170 of August 12, 1988, as amended, also known as the Uniform Administrative Procedure Act. It is hereby provided that the Office of Management and Budget can use the mechanism established in Article 2.13 of the Uniform Administrative Procedure Act for the adoption of its first regulations, without the issuance of any certification by the Governor.

Article 4.03.- Procedure for Determining the Maximum Number of Public Schools and Identifying Public Schools for Demographic Adjustment

(a) The Secretary of the Department of Education will have thirty (30) days after the approval of this Act to submit the following information to the Chief Financial Officer and the Office of Management and Budget:

(1) A fiscal, administrative and operational profile of the Department, its central offices, regions and districts;

(2) A fiscal, administrative, operational and academic profile of each of the Public Schools consolidated in the 2014-2015 Fiscal Year and to be consolidated in the 2015-2016 Fiscal Year;

(3) A fiscal, administrative, operational and academic profile of each of the Public Schools currently operating, their physical facilities and their needs to modernize classrooms through access to Internet and/or Wi-Fi and the creation of spaces that integrate technology and promote learning environments, collaborative work and

intensive use of digital media using information technology, also known as Learning Commons; and

(4) Any other information that the Chief Financial Officer and the Office of Management and Budget deems necessary in order to fulfill its functions.

(b) The Chief Financial Officer and the Office of Management and Budget will have up to thirty (30) days after the approval of this Act, to develop and promulgate their regulations, including a regulation that establishes the procedures to be used for identifying the schools to be consolidated according to the provisions set forth in Article 4.04 of this Chapter.

(c) After issuing their regulations, the Chief Financial Officer and the Office of Management and Budget will:

(1) Calculate the maximum number of Public Schools that may operate according to the formula established in Article 4.04 of this Act;

(2) Identify the specific Public Schools to be consolidated, selected according to the criteria provided in Article 4.05 and through regulation;

(3) At least five (5) months before the proposed consolidation is effectuated, establish an advisory committee on the use of school buildings that will investigate the impact of the proposed consolidation. Said advisory committee will be composed of no less than seven (7) and no more than eleven (11) members, who must include the following:

(A) Directors of the schools subject to evaluation;

(B) Teachers of the schools subject to evaluation;

(C) Parents of the community where the schools under evaluation are located;

(D) Members of the business community, such as owners of stores or businesses in the surrounding area; and

(E) Persons with experience in law, contracts, environment, construction codes, the planning of land use planning and/or zoning.

(4) The Chief Financial Officer and the advisory committee must hold public hearings according to regulations and the parameters set forth in Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act, to collect information pertaining to the enrollment of the schools subject to evaluation and the criteria established in Article 4.05, and to obtain feedback from the school community of each Public School.

(5) Within thirty (30) days of said hearings, the Chief Financial Officer and the Office of Management and Budget will submit the Report on the Demographic Adjustment of Public Schools to the Governor, the Secretary of Education and the Legislative Assembly, according to the provisions set forth in Article 4.06 of this Chapter.

(6) The Chief Financial Officer and the Office of Management and Budget will disseminate the Report on the Demographic Adjustment of Public Schools to the districts, educational regions and school communities, according to the provisions set forth in Article 4.06 of this Chapter.

(7) In order to ensure compliance with the provisions of this Chapter, the Chief Financial Officer and the Office of Management and Budget will establish a strict and orderly timeline and work plan to implement their decisions. The maximum number of Public Schools operating, pursuant to Article 4.04 of this Act must be reached in equal annual phases of necessary consolidations and reconfigurations so that by the beginning of the

2017-2018 Fiscal Year, the maximum number of Public Schools determined by formula is not exceeded.

#### Article 4.04.- Formula for Determining the Maximum Number of Public Schools

In order to determine the maximum number of Public Schools that may operate annually, the Chief Financial Officer and the Office of Management and Budget must divide the number of students enrolled in the Puerto Rico Public Education System for the school year immediately preceding the current year by four hundred (400). The result will be the maximum number of Public Schools that may operate in Puerto Rico.

#### Article 4.05.- Criteria for Identifying Public Schools for Demographic Adjustment

The Chief Financial Officer and the Office of Management and Budget will establish, through regulation, objective, fair and reasonable criteria for identifying the Public Schools to be consolidated according to the maximum amount of schools determined by the formula set forth in Article 4.04 of this Act. Said regulation must include at least the following criteria:

- (1) Current and projected enrollment, as well as the projected use of the school facilities depending on the age and grade of the students enrolled in the school;
- (2) Initial costs and savings that will result from the consolidation;
- (3) Academic performance of the students. Public Schools with high academic achievement cannot be consolidated, unless said Public Schools receive students from other Public Schools. The level of academic achievement will be determined taking into account the scores of the academic achievement tests of the previous three (3) years. Students from consolidated public schools should be placed in high academic achievement schools.

(4) Quality of the infrastructure and physical facilities of the Public School, and their needs to modernize classrooms through access to Internet and/or Wi-Fi and the creation of spaces that integrate technology and promote learning environments, collaborative work and intensive use of digital media using information technology, also known as Learning Commons;

(5) The particular needs of the Public Schools that, having been identified and catalogued among the fifteen percent (15%) of the lowest-achieving schools, have been transformed into Public LIDER Schools and transferred to the Educational Alliances and Innovation Board pursuant to Article 5.04 of this Act. It is hereby set forth that for Public Schools that have been identified for consolidation pursuant to Article 4.05, the host Public School will be transformed into a Public LIDER School and the Educational Alliances and Innovation Board will assume responsibility for it;

(6) Geographical location, transportation services and the distance between schools;

(7) The ability of other schools in the affected district or region to accommodate and serve the students of the schools to be consolidated;

(8) The manner in which the different educational programs for affected students will continue;

(9) The existence of legal, financial or contractual agreements pertaining to the building where the school is located;

(10) Any other additional criteria that the Chief Financial Officer and the Office of Budget and Management deem fair, reasonable and necessary.

Article 4.06- Report on the Demographic Adjustment of Public Schools.

(a) In general. – Within the first one hundred and twenty (120) days of the approval of this Act, the Office of Management and Budget must submit a Report on the Demographic Adjustment of Public Schools to the Governor, the Secretary of Education and the Legislative Assembly for the corresponding action, which will include what will be known as a Statement of Educational Impact and the following determinations and information:

- (1) The maximum number of Public Schools that can be in operation in Puerto Rico in accordance with the formula established in Article 4.04 of this Chapter;
- (2) The number of Public Schools that will be consolidated by fiscal year according to the maximum number of Public Schools that can be in operation in Puerto Rico as established by the formula. It is be understood that the maximum number of Public Schools operating, pursuant to Article 4.04 of this Act, must be reached in equal annual phases of necessary consolidations and reconfigurations so that by the beginning of the 2017-2018 Fiscal Year, the maximum number of Public Schools determined by formula is not exceeded;
- (3) The Public Schools to be consolidated and the host schools that will receive the students from the consolidated schools;
- (4) A sufficiently detailed description that justifies the determination to consolidate each of the Public Schools identified in accordance with the criteria established in Article 4.05 of this Chapter and by regulation;
- (5) The date on which the consolidation of each selected Public School will be in effect;
- (6) The fiscal impact of the consolidation;
- (7) The proposed use of the school facilities and the procedure to provide for them; and

(8) A recommended procedure and work plan for the consolidation of the schools. It is hereby set forth that said consolidation process must include prior notification, consultation, and participation to the schools and communities impacted.

(b) Disclosure of Information.- The Department of Education and the Office of Management and Budget must publish on their websites the Report on the Demographic Adjustment of Public Schools as filed by the Office of Management and Budget within fifteen (15) days after its receipt. In addition, a notice must be published in Spanish and English in at least one (1) newspaper of general circulation in Puerto Rico and in at least one (1) regional newspaper that circulates in the community of the affected schools. Both the website and the newspaper publications must include a summary or brief explanation of the purposes of the proposed action; a citation of the legal provision that authorizes said action; the form, time and place where comments can be submitted in writing or by email; the form, time and place where a hearing may be requested, provided that said request is properly justified; and the physical and electronic address where the complete text of the proposed regulation will be available to the public. Acknowledgement of receipt will be sent by email within two (2) working days after a written comment is received by email.

(c) After receiving the Report on the Demographic Adjustment of Public Schools and any submitted comments, the Department of Education must issue its determination, through a resolution, within thirty (30) days and must proceed with the consolidation established in accordance with the procedures and criteria set forth by the Office of Management and Budget.

Article 4.07.-Compliance with the Provisions of this Chapter

The Secretary will be responsible for implementing the orders and recommendations issued by the Office of Management and Budget in its Report on the Demographic Adjustment of Public Schools. The Director of the Office of Management and Budget must certify to the Legislative Assembly all the years that the Puerto Rico Department of Education Puerto Rico has complied with the orders and recommendations of the Report and with the provisions of this Act.

## **CHAPTER V.- PUBLIC LIDER SCHOOLS**

### **Article 5.01.- Purpose**

The creation of Educational Innovation Alliances to administrate Public Schools is hereby authorized. The purpose of this provision is to grant the most challenged Public Schools, or those in which parents or teachers deem it necessary, the opportunity to overcome their administrative challenges through an innovative alternative mechanism for school administration that improves student performance.

### **Article 5.02.- Public LIDER Schools**

(a) Public LIDER Schools will be public, free, nonsectarian, nonreligious schools, solely administrated through an Educational Innovation Alliance, and will be part of the Puerto Rico Public Education System. Public LIDER Schools will free students from the inefficiency, bureaucratization and partisan bias of the Public Education System. They will innovate teaching in classrooms, democratize public education in Puerto Rico, encourage learning and student academic excellence, promote the efficient administration and operation of schools, and hold the corresponding authorities responsible for the education of our youth.

(b) Public LIDER Schools will have the highest degree of fiscal, operational, administrative and curricular autonomy permitted by law. It will be possible to collect additional funds to be used for the educational benefit of Public LIDER Schools through proposals and other mechanisms allowed by law.

(c) Private schools cannot be converted into Public LIDER Schools, as defined by this Act.

(d) Unless otherwise stated in this Act or any federal law, Public LIDER Schools will be governed exclusively as set forth in this Chapter, and will be exempt from the application of the laws and regulations of the Puerto Rico Department of Education. In the case of Public LIDER Schools administrated by a LIDER School Board, they shall be regulated by the terms established in their Alliance. Moreover, they will be exempt from the application of provisions of other laws that can contravene the ends and purposes of this Chapter.

(e) Notwithstanding, Public LIDER Schools must comply with all applicable laws and regulations pertaining to health and safety requirements applicable to Public Schools and provisions for special education.

#### Article 5.03.- Educational Alliances and Innovation Board

(a) In general.- The Educational Alliances and Innovation Board is hereby created as a governmental entity, ascribed to the Puerto Rico Department of Education, but with the highest degree of fiscal, administrative and operational autonomy permitted by law, with jurisdiction over Public LIDER Schools and Specialized Schools of the Puerto Rico Public Education System. All orders issued by the Educational Alliances and Innovation Board will be issued in the name of the “Puerto Rico Educational Alliances and

Innovation Board.” All actions, regulations and decisions made by the Board will be guided by the applicable laws, by public interest and by an interest in protecting the rights of the students. The Educational Alliances and Innovation Board hereby created will have, in addition to the powers enumerated in this Act, all the additional implicit and incidental powers that are appropriate and necessary for executing, performing and exercising all the aforementioned duties and to fulfill the purposes of this Act.

(b) Autonomy.- The Educational Alliances and Innovation Board will enjoy highest degree of operational, administrative and fiscal autonomy from the Puerto Rico Department of Education permitted by law in order to carry out all of its functions. The Educational Alliances and Innovation Board will function as its own Local Educational Agency (LEA), and will be responsible for complying with the requirements of Local Educational Agencies under federal laws and the laws of the Commonwealth of Puerto Rico, including special education laws.

(c) Composition.- The Educational Alliances and Innovation Board will be composed of the Secretary of Education (*ex officio* member) and eight (8) additional members representing different sectors of society. One (1) will be the President of the University of Puerto; one (1) will be the Dean of the College of Education of the University of Puerto Rico; one (1) will be the President of the Puerto Rico Association of Private Colleges and Universities; one (1) will be an educational leader with at least five (5) years of experience in education, who will be chosen from the teachers’ unions in Puerto Rico; one (1) will be a representative from a non-profit organization duly registered by the State Department who has distinguished him/herself as a social, community and educational leader in the Commonwealth; one (1) will be the President of the Puerto Rico

Association of Cooperative Executives; one (1) will be the President of the Puerto Rico Chamber of Commerce; and one (1) will be the President of the Puerto Rico Manufacturers Association. The representative of the non-profit organization must be of legal age, proven moral probity, and knowledge, preparation, ability and experience in education and administration of educational institutions, or in other fields including, but not limited to law, finance and accounting. In order to select the representative from a non-profit organization, the presidents of the legislative bodies will recommend three (3) candidates to the Governor within fifteen (15) days of the approval of this Act. The Governor, at his/her discretion, will evaluate the recommendations and choose one (1) person out of the three (3). If the Governor rejects the three (3) candidates, the presidents of the legislative bodies will recommend three (3) other candidates within fifteen (15) days after receiving the Governor's notification.

(d) Terms of duty.- All members of the Educational Alliances and Innovation Board will begin their functions immediately after the approval of this Act and fulfill this position during the entire time of their appointments as secretary and presidents of their respective associations and institutions or until their successor is appointed. The educational leader appointed to the Board will fulfill the position for a term of four (4) years. The representative from the non-profit organization will fulfill the position for a term of five (5) years.

(e) Compensation.- Members of the Educational Alliances and Innovation Board will not receive any form of compensation for their service and work as members of the Board.

(f) President.- The President of the Educational Alliances and Innovation Board will be selected by a majority vote among the members of the Board. The Secretary of Education

will not be eligible to serve as President of the Educational Alliances and Innovation Board.

(g) Budget.- The Puerto Rico Office of Management and Budget will allocate sufficient funds from the General Budget of Operating Expenses of the Commonwealth of Puerto Rico to the Educational Alliances and Innovation Board as a specific and separate line item for its administration and functioning, as well as to comply with the public policy set forth in this Act. Said funds will not be less than the equivalent of two percent (2%) of the budget allocated to Public LIDER Schools, pursuant to Subsection (b) of Article 3.04 of this Act. During the 2015-2016 Fiscal Year, the Department of Education will provide the Educational Alliances and Innovation Board with the necessary financial resources for its administration and functioning, and to comply with the public policy set forth in this Act. Therefore, the Office of Management and Budget will deduct, within thirty (30) days of this approval of this Act, a sum equal to one million dollars (\$1,000,000) from whatever funds have been allocated to the Department of Education in its budget for the 2015-2016 Fiscal Year, and will assign it to the Educational Alliances and Innovation Board.

(h) Internal Functioning.- The Governor will convene the Educational Alliances and Innovation Board for an inaugural session within a term no greater than sixty (60) days, after the approval of this Act. At this inaugural session, the President will be elected. Within thirty (30) days of this inaugural session, the regulations for the Board's internal functioning will be adopted, in accordance with the best practices for boards of directors. The required quorum for said body to make decisions will be five (5) members. The Educational Alliances and Innovation Board agreements and resolutions will require a

majority vote of at least five (5) members. Should a conflict or potential conflict of interest arise with any member during the process of awarding an Educational Innovation Alliance, said member will abstain from participating.

(i) Meetings.- The Educational Alliances and Innovation Board will hold a minimum of two (2) monthly meetings to carry out their tasks consistently with the agenda or work plan adopted by the same. It will hold special meetings when necessary. The Educational Alliances and Innovation Board meetings will be publicly announced in advance, open to the public and/or broadcast on the Internet.

(j) Conflicts of Interest.- The members of the Educational Alliances and Innovation Board will hold no direct or indirect financial interest in any Applicant or Certified Educational Entity. This prohibition will extend for a period of five (5) years after their service on the Educational Alliances and Innovation Board concludes. In the case that a direct or indirect conflict of financial interest arises from a family member in a Certified Educational Entity, as such a conflict is defined in the Government Ethics Act, the affected Educational Alliances and Innovation Board member must strictly comply with said Act, as well as the regulations and directives of the Office of Government Ethics, particularly with respect to inhibition and resignation due to conflict of interest.

(k) Functions.- The Educational Alliances and Innovation Board will have the following duties and powers to:

(1) Adopt and utilize an official seal for the authentication of its minutes.

(2) Adopt the rules and regulations it deems necessary to implement and achieve the purposes and provisions of this Act, including the structure and operation of the

Educational Alliances and Innovation Board, provided that they are not inconsistent with this Act.

(3) Assume responsibility for the Public LIDER Schools and the Specialized Schools of the Puerto Rico Public Education System.

(4) Appoint an Executive Director responsible for the daily operation of the Board. It is hereby set forth that the Executive Director will be the executive officer responsible for the compliance with the public policy established by this Act, under the direction of the Educational Alliances and Innovation Board. He/She will be in charge of the general supervision of officers, employees and agents of the Educational Alliances and Innovation Board. The Executive Director will have all the powers bestowed upon him/her by this Act and those that the Educational Alliances and Innovation Board delegates to him/her through regulation or resolution. The Educational Alliances and Innovation Board will decide the compensation of the Executive Director and other appointed officers. The salary of the Executive Director will not be greater than ninety percent (90%) of the salary of the Secretary of Education.

(5) Establish, through regulation, a transition procedure for Public Schools that become Public LIDER Schools or Specialized Schools, in accordance with what is set forth in this Act.

(6) Establish, through regulation, its own personnel system not subject to Act No. 184-2004, as amended, known as the Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico.

(7) Prepare an annual budget for its maintenance and operational expenses, which will be submitted to the Office of Management and Budget and the Legislative Assembly.

(8) Disclose and report, in a continuous and periodic manner, to the Secretary and the general public, through its website, all available information about the implementation of this Act and the academic, financial and operational performance of all Public LIDER Schools, Specialized Schools, and Certified Educational Entities.

(9) Establish procedures and criteria for the evaluation of Applications and the certification of Certified Educational Entities in accordance with the requirements established in this Act, and any applicable federal and state legislation.

(10) Appoint officials and establish committees for the evaluation of Applications. It is hereby set forth that members of evaluating committees will not have direct or indirect financial interests in any entity that is being evaluated. This prohibition will extend for a period of five (5) years after their service on the Educational Alliances and Innovation Board concludes. In the case that a direct or indirect conflict of financial interest arises from a family member in a Certified Educational Entity, as such a conflict is defined in the Government Ethics Act, the affected Educational Alliances and Innovation Board member must strictly comply with said act, as well as the regulations and directives of the Office of Government Ethics, particularly with respect to inhibition and resignation due to conflict of interest.

(11) Establish procedures and criteria for the search and evaluation of proposals from Certified Educational Entities to obtain Educational Innovation Alliances, in accordance with the requirements set forth in this Chapter, and applicable state and federal legislation.

(12) Establish external committees and appoint officials that evaluate proposals from Certified Educational Entities and LIDER School Boards to obtain Educational

Innovation Alliances. Said committees will contain representatives from the Community of the Public School under evaluation for its transformation into a Public LIDER School. It is hereby set forth that members of evaluating committees will not have direct or indirect financial interests in any Certified Educational Entity that has submitted a proposal. This prohibition will extend for a period of five (5) years after their service on the Educational Alliances and Innovation Board concludes. In the case that a direct or indirect conflict of financial interest arises from a family member in a Certified Educational Entity, as such a conflict is defined in the Government Ethics Act, the affected Educational Alliances and Innovation Board member must strictly comply with said act, as well as the regulations and directives of the Office of Government Ethics, particularly with respect to inhibition and resignation due to conflict of interest.

(13) After evaluation, award Educational Innovation Alliances to Certified Educational Entities for the operation and administration of one or multiple Public LIDER Schools under the same authorization, prior corresponding authorization or certification, as set forth in this Act and according to the regulations adopted herein.

(14) Establish procedures and criteria for monitoring the academic, financial and operational performance of Public LIDER Schools, as established in this Act and its respective Educational Innovation Alliances, and conduct a rigorous evaluation of said performance at least every two (2) years and publish the results on the Internet.

(15) Appoint officials and establish committees for the purpose of evaluating the performance of the Certified Educational Entities and LIDER School Boards that have signed Educational Innovation Alliances and their respective Public LIDER Schools. It is hereby set forth that members of evaluating committees will not have direct or indirect

financial interests in any Certified Educational Entity that has signed an Alliance. This prohibition will extend for a period of five (5) years after their service on the Educational Alliances and Innovation Board concludes. In the case that a direct or indirect conflict of financial interest arises from a family member in a Certified Educational Entity, as such a conflict is defined in the Government Ethics Act, the affected Educational Alliances and Innovation Board member must strictly comply with said act, as well as the regulations and directives of the Office of Government Ethics, particularly with respect to inhibition and resignation due to conflict of interest.

(16) Establish procedures and criteria for revoking or extending an Educational Innovation Alliance, including prior notification to the Certified Educational Entity or LIDER School Board and the Community of the Public LIDER School that is in substantial material breach of the terms of the Alliance.

(17) Contract the services of technical, professional, highly specialized or any other type of personnel that is deemed necessary for the performance of its functions; and establish, through regulation, the rules for acquiring services and contracting external resources, while avoiding conflict of interest.

(18) Appoint the employees necessary to fulfill its functions. The Educational Alliances and Innovation Board will be exempt from the individual or collective bargaining laws that apply to public agencies and corporations, including Act No.184-2004, as amended, and Act No.45-1998, as amended.

(19) Perform periodical inspections and audits of the Public LIDER Schools to fulfill the purposes of this Act.

(20) Ensure that all Public LIDER Schools and Specialized Schools of the System satisfy the needs for facilities, access, equipment, and services to meet the needs of students with special needs according to the provisions of this Act, as well as any applicable federal or state laws.

(21) Impose sanctions on those Public LIDER Schools that break the laws or regulations governing the Puerto Rico Public Education System after due process.

(22) Adopt rules, pronouncements and regulations that are necessary for complying with all of its duties; and issue orders for compliance with the powers that it is conceded by law and the implementation of this Act. The regulations will be adopted in accordance with Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act. It is hereby provided that it can use the mechanism established in Article 2.13 of the Uniform Administrative Procedure Act to adopt the first Board regulations, as well as those necessary to fulfill its duties and responsibilities, without the need for the Governor to issue any certification.

(23) Provide technical assistance to Certified Educational Entities and to LIDER School Boards according to federal and state requirements.

(24) Recommend the adoption of legislation related to the public policy hereby promulgated to the Governor and the Legislative Assembly.

(25) Submit annual reports, on or before March 1<sup>st</sup> of every year, to the Governor and the Secretary's Office of each body of the Legislative Assembly on the implementation of this Chapter and the academic, financial and operational performance of all Certified Educational Entities, LIDER School Boards and the Public LIDER Schools under their supervision.

(26) Supervise, ensure and assist with the implementation by the Puerto Rico Department of Education of all necessary actions to fulfill all the provisions of this Act.

Article 5.04.- Transfer of Schools to the Board

(a) The Educational Alliances and Innovation Board will assume responsibility for and award Educational Innovation Alliances to the following Public Schools, in accordance with the provisions set forth in the following sections:

(1) Obligatory Transfer – Fifteen percent (15%) of the lowest-achieving Public Schools, the determination of which will be made on the date this Act is approved and every three (3) years beginning on the first year this Act takes effect, according to the following criteria: (A) the scores of the Puerto Rican Tests of Academic Achievement (PTAA) for the last three (3) consecutive years; (B) the Puerto Rico Department of Education ESEA Flexibility Plan approved by the United States Department of Education; (C) the criteria for annual progress established by the Puerto Rico Public Education System and required under Section 1111 of the Elementary and Secondary Education Act (ESEA); and (D) any other federal regulation or parameter for assessing the academic achievement and performance of Public Schools in the Commonwealth, will be transferred to the Board in accordance with the procedure established in Subsection (c) of this Article.

(2) Additional Transfers – Any Public School that has received any of the following requests can be transferred to the Board so as to obtain an Educational Innovation Alliance:

(A) Parents' Request – by a majority vote of fifty-one percent (51%) of the parents of students enrolled in said school, who are present at the vote and decide in favor of transforming the school into a Public LIDER School; or

(B) Teachers' Request - by a majority vote of fifty-one percent (51%) of the teachers assigned to said school, who are present at the vote and decide in favor of transforming the school into a Public LIDER School.

(b) Within sixty (60) days after the approval of this Act, the Educational Alliances and Innovation Board will take up the rules governing the referendums to vote in favor or against a proposal to transform a Public School into a Public LIDER School, in accordance with Subsection (a) of this Article and with the laws of the Commonwealth of Puerto Rico. This will include a procedure for parent voting so that only one vote will be cast per student by their parent or guardian.

(c) After the establishment of the regulations for the administration and operation of the Educational Alliances and Innovation Board, the Board will study and identify, for a period not to exceed ninety (90) days after the enactment of said regulation, fifteen percent (15%) of the lowest-achieving Public Schools, according to Subsection (a)(1) of this Article 5.04. The Board will repeat this procedure every three (3) years starting on the first year after the enactment of this Act, constantly ensuring administrative and operational alternatives to transform the lowest achievement schools of the Commonwealth.

(d) Based on the evaluation and identification of said schools, and during the ninety (90) day period in which the same is carried out, the Board must determine and assume limited responsibility for Public Schools that request being transformed into Public LIDER Schools exclusively to initiate the process of transformation.

(e) Specialized Schools existing at the time of the approval of this Act, and which have not been identified or classified among the fifteen percent (15%) of the lowest-achieving

Public Schools according to this Article 5.04, can decide to remain a Specialized School, as provided in the Circular Letter No. 17-2013-2014 or any other successor Circular Letter or regulation. They can also decide to be transformed into a Public LIDER School. Public Schools that request to become a Public LIDER Schools must complete the procedures set forth and will be governed exclusively by the provisions of this Chapter and their respective Educational Innovation Alliances. Upon the enactment of this Act, the Specialized Schools Unit will become part of the Educational Alliances and Innovation Board. The Specialized Schools Unit of the Puerto Rico Department of Education will become part of the Educational Alliances and Innovation Board.

#### Article 5.05.- Duty to Report

(a) In general.- The Educational Alliances and Innovation Board will disclose and report to the Legislative Assembly and the Puerto Rico Institute of Statistics every semester all available information pertaining to the implementation of this Chapter and the academic, financial and operational performance of all Public LIDER Schools and Specialized Schools. The duty to publish the information set forth in this provision will also comply with the federal requirements of the United States Department of Education.

(b) Disclosure of Information to the Secretary.- The Educational Alliances and Innovation Board will provide information on the enrollment, attendance and number of students with disabilities to the Secretary.

(c) Publication of Information on the Internet.- The Educational Alliances and Innovation Board must create an accessible and user-friendly Internet website that is updated quarterly and contains information that is of public interest, and all type of related data and information pertaining to the purpose of this Act, including but not limited to:

- (1) An educational and civic orientation and awareness program of the provisions of this Act;
- (2) An itemized list, revised on a yearly basis, of the fifteen percent (15%) of the lowest-achieving Public Schools as set forth in Subsection (a)(1) of Article 5.04 of this Act;
- (3) An itemized list that is accessible and easy to understand for teachers, parents and the community of the annual scores for each Public LIDER School on the Puerto Rican Tests of Academic Achievement (PTAA) or any other diagnostic test used by the Puerto Rico Public Education System, as well as at the federal or international level, to assess the academic achievement of students, as required by the Elementary and Secondary Education Act of 1965 (ESEA).
- (4) An itemized and periodically revised list of the Certified Educational Entities authorized by the Board;
- (5) An administrative, operational, financial and academic profile of each Public LIDER School under the jurisdiction of the Board in which the Certified Educational Entity and LIDER School Boards operating each Public LIDER School is identified;
- (6) Educational Innovation Alliances approved by the Board;
- (7) Criteria for the evaluation of the performance of Public LIDER Schools, as set forth by this Act and by the Board;
- (8) Results of the periodic evaluations of the Certified Educational Entities, LIDER School Boards and their respective Public LIDER Schools carried out by the Board;
- (9) All operational and administrative regulations of the Board; and

(10) Any other information, data or statistics pertaining to the implementation of this Act and the academic, financial and operational performance of all Public LIDER Schools under the jurisdiction of the Board.

Article 5.06.- Admission to a Public LIDER School

(a) Admission to a Public LIDER School will be open to any student that is a resident of the Commonwealth of Puerto Rico. The Public LIDER School will be required to serve all students enrolled in it before being awarded an Educational Innovation Alliance. If the Public LIDER School has been subject to a consolidation, it will have to serve all students of the receiving or consolidated Public LIDER School, unless the Report on the Demographic Adjustment of Public Schools considers a reconfiguration of the school grades served as part of the consolidation process.

(b) If the Public LIDER School does not have the capacity to admit all students that apply for admission, it will select students by means of a lottery conducted in accordance with rules established by the Educational Alliances and Innovation Board. In the selection of students, however, a Public LIDER School can give enrollment preference to within the school grades it offers to: (i) students who were enrolled in the school the year prior to its transformation, unless they were expelled for just cause; (ii) siblings of students already enrolled in the school and; (iii) students residing within the school geographical limits, as set forth in its Educational Innovation Alliance. Students granted enrollment preference will be excluded from entering into the lottery.

Article 5.07.- Procedure for the Certification of Educational Entities and the Awarding of Educational Innovation Alliances

(a) After identifying the Schools that will be transformed, as set forth in this Chapter, the Board will establish a procedure to receive Applications from entities interested in qualifying as Certified Educational Entities.

(b) The Board will have no more than ninety (90) days to evaluate and certify Applicants that submit Applications to qualify as Certified Educational Entities, and that fulfill the requirements set forth in this Act. The Board can charge a fair and reasonable fee for the evaluation, handling and issuance of said certifications to the entities interested in becoming Certified Educational Entities.

(c) After the Board finishes the certification process of Applicants, it will begin the process of proposal evaluation and selection that will result in the awarding of, or refusal to award, Educational Innovation Alliances, in accordance with the criteria and procedures set forth by the Board through regulation, following the best practices and procedures generally used in bids held by the Commonwealth of Puerto Rico and the parameters established by this Act. The Board will have up to ninety (90) days to evaluate and award the Alliance. Details pertaining to the procedures for the qualification, evaluation, negotiation and selection of proposals and the award of Alliances will be set forth in the regulations approved for this purpose by the Board. In case the Educational Alliances and Innovation Board does not receive a satisfactory proposal for a specific Public School, it will not award an Educational Innovation Alliance for said Public School, and the Educational Alliances and Innovation Board will not assume responsibility for it.

(d) The Board will have the power to group or consolidate two or more Public LIDER Schools under a single Educational Innovation Alliance.

(e) If more than one Certified Educational Entity and/or more than one proposal by a LIDER School Board is certified to establish an Alliance with a single school, the final decision of the Board on which Certified Educational Entity will be awarded the Alliance must be based on a majority vote by parents and teachers of said school. The voting process will be established by the rules and regulations required in Subsection (a) of Article 5.04 of this Act.

#### Article 5.08.- Requirements for Qualification and Authorization of Certified Educational Entities

(a) To promote, guide, direct and recruit entities that want to become Certified Educational Entities, the Educational Alliances and Innovation Board will issue and publish a request for proposals consistent with the requirements of this Act. The request for proposals must include at least the following information: (A) the vision of the Board for Public LIDER Schools, including the preferences established for learning based on aptitude and tending to “high risk” students as defined by Act No. 213-2012, as amended, known as the Development of Alternative Education in Puerto Rico Act and the other main subgroups of students; (B) the framework of performance and quantified objectives that are used to measure the performance of Certified Educational Entities and Public LIDER Schools; (C) a list of questions and information that Applicants must answer and/or produce to demonstrate that they possess the characteristics and satisfy the criteria to administrate a Public LIDER School; and (D) information about the Public Schools that have been identified and catalogued among the fifteen percent (15%) lowest-achieving schools in accordance with this Article 5.04 to be obligatorily transformed into Public LIDER Schools. The request for proposals does not require that the Applicant

identify or select the Public LIDER Schools that it is interested in administrating through an Alliance, the process of which will be independent and pursuant to Article 5.09 of this Act. Notwithstanding, the Applicant will be permitted to limit his request for certification to one or more different categories of Public Schools, such as elementary, intermediate secondary and postsecondary.

(b) In order to qualify an Applicant as a Certified Educational Entity, the Educational Alliances and Innovation Board must determine that the Applicant possesses the following characteristics and satisfies the following requirements:

(1) An organizational structure, including a Board of Directors that contains a diversity of persons specialized in various academic subjects, who will be in charge of directing and supervising the operation and administration of Public LIDER Schools.

(2) A pedagogical design, as well as a plan to use internal and external evaluations to periodically assess the quality of learning and the academic achievement of their students. In addition, an innovation plan detailing the advanced technological strategies that will be used in the teaching processes of said school, and its use in promoting aptitude-based learning.

(3) An improvement plan focused on the academic achievement of the students enrolled in Public LIDER Schools, with an emphasis on academic improvement in Math, Science and language skills, including reading and writing in Spanish and English.

(4) A plan for all other integral components of the educational program, including physical education, education in arts and music, student organizations and activities, cultural activities, use of technology, and extended hours programs, among others.

(5) Executive and managerial personnel with the preparation and experience necessary to administrate, operate and direct a Public LIDER School, and the capacity to recruit faculty with the preparation and experience necessary to implement the academic program of the school.

(6) A strict and rigorous procedure for the selection and annual evaluation of the Teaching and Non-Teaching Personnel in accordance with the regulations established by the Educational Alliances and Innovation Board and any other applicable state or federal requirements. Public LIDER Schools may use, at their discretion, the system established in the Teacher Evaluation and Support Program established by the Secretary pursuant to this Act.

(7) A teacher substitution plan with the procedures and personnel necessary to ensure the uninterrupted teaching of all subjects.

(8) A plan for continuing education and development of the teaching and non-teaching personnel of the school.

(9) A system for monitoring student development and achievement, and a college counseling, mentoring and support system that makes timely and sensible interventions with the students and parents and/or legal guardians.

(10) In the case of special programs, a description of requirements reasonably related to the mission and vision of the school, and compliant with applicable federal and state laws.

(11) A plan for successfully identifying and serving students with disabilities, including but not limited to, compliance with applicable laws and regulations.

- (12) A plan for parental and community participation in the decision-making processes of the school.
- (13) Procedures for managing student information in compliance with applicable state and federal laws and regulations, and any other requirement that the Educational Alliances and Innovation Board establishes through regulation.
- (14) Proof of possessing public responsibility insurance and any other applicable insurance that the Educational Alliances and Innovation Board requires through regulation.
- (15) Adequate procedures for the fiscal, administrative, and teaching operations of the school, as well as system for the self-evaluation of said procedures.
- (16) Adequate procedures for purchasing and contracting external resources, including a policy to avoid conflicts of interests in said procedures.
- (17) Adequate policies and procedures for addressing complaints filed by parents regarding the functioning of the school.
- (18) Adequate policies and procedures to ensure that the Public LIDER School complies with this Act, with federal laws, the laws of the Commonwealth of Puerto Rico and other policies, standards, procedures and regulations promulgated by the Educational Alliances and Innovation Board.
- (19) Disciplinary regulations and procedures for students, as well as for the Teaching and Non-Teaching Personnel.
- (20) Economic solvency and technical experience in business or public administration and education.

(21) Any other requirement that the Educational Alliances and Innovation Board establishes through regulation, including a compliance bond.

Article 5.09.- Requirements for the Authorization of Educational Innovation Alliances

(a) To promote, guide, direct and call for proposals for Alliances to administrate a specific Public LIDER School, the Educational Alliances and Innovation Board will issue and publish a request for proposals for Educational Innovation Alliances consistent with the requirements of this Act. The request for proposals must include at least the following information: (A) the vision of the Board for said Public LIDER School, including the preferences established for learning based on aptitude and tending to “high risk” students as defined by Act No. 213-2012, as amended, known as the known as the Development of Alternative Education in Puerto Rico Act and the other main subgroups of students; (B) the framework of performance and quantified objectives that are used to measure the performance of the Certified Educational Entity pertaining to the Public LIDER School; (C) a list of questions and information that the Certified Educational Entity and/or LIDER School Board must answer and/or produce to demonstrate that it possesses the characteristics and satisfies the criteria to administrate said Public LIDER School; and (D) detailed information regarding the Public LIDER School, including but not limited to the actual academic performance of the students enrolled in the Public LIDER School, the condition of the physical facilities of the Public LIDER School, and information pertaining to its teaching personnel. It will be permitted and the Board will give an opportunity to: (i) public educational entities or (ii) entities organized by the teaching personnel and/or the parents of students enrolled in the Public LIDER School to become a Certified Educational Entity as part of an Alliance award, as long as they include in

their proposal the required information, and that they meet the requirements for approval as set forth in Article 5.08 of this Act.

(b) All approved Educational Innovation Alliances must meet the following requirements and all other requirements established by the Educational Alliances and Innovation Board through regulation:

(1) It must be signed by the President of the Educational Alliances and Innovation Board and the Director of the Certified Educational Entity or LIDER School Board, as applicable.

(2) It must set forth that the education provided by the Certified Educational Entity in Public LIDER Schools will be public, free, nonsectarian and nonreligious.

(3) It must establish a structure for the academic offerings of the school by grade, age or other known general criteria.

(4) It must include a plan for academic achievement and improvement to be implemented by the Certified Educational Entity or LIDER School Board in the Public LIDER School for each main subgroup of students with annual objectives based on rigorous, valid and reliable empirical data, and teaching strategies and study programs compliant with applicable state and federal laws.

(5) It must include a plan for the periodic assessment of student academic achievement and its improvement, including the annual administering of diagnostic tests of the Puerto Rico Public Education System and other tests used at the federal and international level to assess academic achievement and improvement of each student and each main subgroup of students.

(6) It must include a plan to be implemented by the Certified Educational Entity or LIDER School Board for the improvement and maintenance of the physical facilities of the Public LIDER School, which must at least ensure that the facilities comply with applicable health and safety standards.

(7) It must establish that the Certified Educational Entity can negotiate and execute contracts with other components of the Puerto Rico Public Education System, the governing body of any public higher education institution or any other government, public or private entity for: (i) the operation and maintenance of school facilities; and (ii) the performance of any service, activity or task required by the school to fulfill the terms of its Educational Innovation Alliance.

(8) It must establish that the Certified Educational Entity will be responsible for providing all Public LIDER School students with textbooks and other educational materials (physical or electronic).

(9) If applicable, it must include the corresponding intervention models used by the Puerto Rico Public Education System in its SIG Program.

(10) It must establish whether there will be an expansion in the school grades offered at the Public LIDER School.

(11) It must establish that if a School does not have the capacity to admit all the students that apply for admission, the students who do not have enrollment preference will be selected through a lottery, in accordance with Article 5.06 of this Act.

(12) It must establish that the Certified Educational Entity and the Public LIDER Schools administrated by said entity or by a LIDER School Board will be subject to the evaluation and auditing procedures established by the Educational Alliances and

Innovation Board and required by local and federal laws to ensure their compliance with the terms and conditions of the Alliance, and other applicable requirements.

(13) It must include an annual plan and system for accountability with specific indicators and objectives to evidence the annual performance of Public LIDER Schools according to its vision and mission, the terms and conditions of the applicable Alliance, and the parameters set forth in this Chapter. The scores of said tests will be disaggregated by the main subgroups of students. Any information resulting from this plan will be used by the Educational Alliances and Innovation Board to evaluate the performance of said schools.

(14) It must include a plan to make viable the active integration and participation of parents and communities in the decision making and the implementation of strategies designed for the academic improvement of the Public LIDER School.

(15) It must include a budget proposal establishing the funds to be allocated annually to the Public LIDER School for the term of the Educational Innovation Alliance, and a description of the required annual financial audits.

(16) It must set forth that in the event of an annual surplus in the budget of the Public LIDER School, said school shall retain the surplus for use in activities and resources exclusively directed towards improving the academic and educational achievements of its students and teachers. In the event of a surplus of federal funds, the same process will be followed, unless otherwise stated by applicable federal regulations.

(17) It must establish a performance bond, a compliance bond, and an affidavit stating that it meets the following requirements to enter into an Educational Innovation Alliance:

- (A) Technical experience in business or public administration and education;
- (B) Necessary economic solvency; and

(C) Any other factor set forth by the Board through regulation.

(18) In the case of an Alliance agreed upon with a LIDER School Board, exemptions and dispensations awarded by the laws and norms of the Department of Education by the Educational Alliances and Innovation Board for said Public LIDER School.

(18) It must establish the term of the Alliance.

(c) All Educational Innovation Alliances can include additional terms that the Board deems pertinent in order to fulfill the purpose of this Act and obtain the highest possible student achievement.

#### Article 5.10.- Term of Educational Innovation Alliances

Educational Innovation Alliances will have a term of five (5) years, subject to a favorable evaluation of the Public LIDER School by the Educational Alliances and Innovation Board three (3) years after the Alliance takes effect. In addition to the criteria for evaluating Certified Educational Entities, the LIDER School Boards and the Public LIDER Schools that said Educational Entity administrates, pursuant to Article 5.12 of this Act, said evaluation will measure the performance of Certified Educational Entities pursuant to the terms and conditions of their respective Alliances, specifically the compliance of each Certified Educational Entity and LIDER School Board with its academic achievement and improvement plan for each main subgroup of students, and the fulfillment of the annual objectives based on rigorous, valid and reliable empirical data set forth in its Alliance. All Alliances can be renewed for additional periods not to exceed five (5) years, provided that the Certified Educational Entity or LIDER School Board, as applicable, and the Public LIDER School have successfully passed the evaluation by the Educational Alliances and Innovation Board. Likewise, they may be

rescinded at any time if the Educational Alliances and Innovation Board determines non-compliance with the provisions set forth in the Alliance and/or this Chapter.

#### Article 5.11.- Enrollment

The student enrollment in Public LIDER Schools or Specialized Schools will be included in the enrollment of the Puerto Rico Public Education System and, if applicable, in the count of students with disabilities of the school district in which the student resides. Public LIDER Schools and Specialized Schools must report all such data to the Educational Alliances and Innovation Board on a yearly basis. The Educational Alliances and Innovation Board will, in turn, report this data to the Department of Education.

#### Article 5.12.- Oversight of Compliance with Educational Innovation Alliances

(a) Oversight – The Educational Alliances and Innovation Board will perform an annual evaluation of the Certified Educational Entity and LIDER School Board, as applicable, and the Public LIDER School(s) said Entity administrates in accordance with the terms and conditions of the Alliance. Each Certified Educational Entity and LIDER School Board will be given reasonable opportunity to correct any reported deficiencies in the annual evaluations, unless said deficiencies justify an immediate dissolution of the Alliance.

(b) Evaluation Criteria – The Educational Alliances and Innovation Board will use the following criteria to evaluate the Certified Educational Entities, LIDER School Boards and the Public LIDER School(s) they administrate:

(1) Student academic performance by subject based on the diagnostic tests of the Puerto Rico Public Education System, and other tests used at the federal and international level to assess student academic achievement;

- (2) Academic development and growth of students over time;
- (3) Gap between students with higher and lower academic achievement;
- (4) High school preparation, applicable to schools that only offer elementary and/or intermediate education;
- (5) Academic preparation for college and post-secondary education, applicable to schools that only offer secondary education;
- (6) Annual enrollment;
- (7) Attendance rate of students and Teaching and Non-Teaching Personnel;
- (8) Retention rate of students;
- (9) Budget distribution and use;
- (10) Improvement in governance, administration and the physical facilities;
- (11) Evaluation scores of Teaching and Non-Teaching Personnel;
- (12) Compliance with all applicable state and federal laws, the rules and regulations of the Educational Alliances and Innovation Board, and the terms and conditions of the Educational Innovation Alliance; and
- (13) Any other criteria of academic, financial or operational assessment agreed upon by the Educational Alliances and Innovation Board and a Certified Educational Entity in their Educational Innovation Alliance.

#### Article 5.13.- Teaching and Non-Teaching Employees

- (a) A Certified Educational Entity and a LIDER School Board, were said Board to elect to do so as part of its Alliance, can recruit, hire, train and evaluate the employees of a Public LIDER School without being subject to Act No. 184-2004, as amended, known as the Public Service Human Resources Administration Act

of the Commonwealth of Puerto Rico, but in accordance with the standards and guidelines established by the Educational Alliances and Innovation Board. The personnel assigned to a Public LIDER School administrated by a LIDER School Board, if it elects to do so as part of its Alliance, or by a Certified Educational Entity will also be exempt from the collective or personnel bargaining laws that apply to public agencies and corporations, including Act No. 184-2004, as amended, and Act No. 45-1998, as amended. The Certified Educational Entity or the School Director of a Public LIDER School administrated by a LIDER School Board may give recruitment preference to employees of the Puerto Rico Department of Education.

As part of the budget annually submitted to the Chief Financial Officer, each Public LIDER School will provide the Chief Financial Officer with the necessary information so that the Treasury Department can process the payroll of said Public LIDER School and notify of any changes as the current fiscal year progresses. Personnel assigned to a Public LIDER School administrated by a LIDER School Board will not be sheltered by Act No. 184-2004, as amended, known as the Puerto Rico Public Service Personnel Act and the personal or collective bargaining laws that may apply to public agencies and corporations, including Act No. 45-1998, as amended, unless it is so stipulated in the Alliance for said Public School, and so long as at least sixty percent (60%) of the personnel assigned to said school agree to it as demonstrated by a vote administered by the Educational Alliances and Innovation Board.

(b) Teaching and non-teaching employees working in a traditional Public School at the time it is transformed into a Public LIDER School can voluntarily participate in interviews and evaluations with the purpose of receiving an employment offer in said Public LIDER School. To that end, the Certified Educational Entity and the School Director of a Public LIDER School administrated by a LIDER School Board can likewise interview and evaluate employees from any Public School that voluntarily decide to participate in said interviews and evaluations.

(c) All employees who are selected by a Certified Educational Entity or for a Public LIDER School administrated by a LIDER School Board to work in a Public LIDER School, and who freely and voluntarily accept employment in a Public LIDER School will become part of the Certified Educational Entity or subject to the terms agreed upon with the School Director of a Public LIDER School administrated by a LIDER School Board through administrative transfer, under the terms and conditions agreed upon by the Educational Alliances and Innovation Board and/or the Certified Educational Entity through an Educational Innovation Alliance. Teaching or non-teaching employees that return to their previous position will not lose any rights or benefits for being an employee in a Certified Educational Entity or under the terms agreed upon with a Public LIDER School administrated by a LIDER School Board. If they do not request to return to their previous position in the Department of Education within one (1) year of their administrative transfer, the employee will continue working in the Public LIDER School, as agreed, with the Certified Educational Entity or under the terms agreed upon by a Public LIDER School administrated by a LIDER School Board.

(d) Teaching and non-teaching employees who are not offered employment, decide not to participate in the interview and evaluation process or decline an employment offer to work in a Public LIDER School will continue to be employees of the Puerto Rico Department of Education as set forth by the Secretary. Employees who receive and voluntarily accept an employment offer from a Certified Educational Entity or under the terms agreed upon with the School Director of a Public LIDER School administrated by a LIDER School Board will become employees governed by said agreements upon acceptance.

(e) Teachers of a Public LIDER School will earn a salary that is no less than the applicable salary scale of the Department of Education. The Certified Educational Entity and the School Director of a Public LIDER School administrated by a LIDER School Board can also grant additional benefits, such as performance bonuses and incentives.

(f) Employees of a Certified Educational Entity whose terms are governed by means of an agreement with the School Director of a Public LIDER School administrated by a LIDER School Board must comply with the rules and regulations set forth by the Educational Alliances and Innovation Board for said employees, and will not be subject to the rules and regulations of the Puerto Rico Department of Education that would normally apply to them, as established in the relevant Alliance.

(g) Employees of a Certified Educational Entity or of a Public LIDER School administrated by a LIDER School Board will be eligible to participate in the health insurance plan contracted by the Certified Educational Entity or School Director for said Public LIDER School, if any, or the health insurance plan of the Puerto Rico Health

Insurance Administration (PRHIA). corresponding premiums for said health plans will be paid as part of the Public LIDER School's operational budget.

Article 5.14.- Participation of Certified Educational Entity Employees in the Retirement Systems of the Commonwealth of Puerto Rico

(a) Teaching employees of the Puerto Rico Public Education System who voluntarily become employees of a Certified Educational Entity or of a Public LIDER School administrated by a LIDER School Board will continue to contribute to the Puerto Rico Teacher's Retirement System, provided that they continue performing teaching functions. To that end, the Public LIDER School will deduct from its budget the corresponding employer contributions and, if applicable, the Treasury Department will retain the individual contributions required by Act No. 160-2013, as amended, from the salary of the employee.

(b) Non-teaching employees of the Department of Education who contribute to the Retirement System of the Government Employees of the Commonwealth of Puerto Rico and who voluntarily become employees of a Certified Educational Entity or of a Public LIDER School administrated by a LIDER School Board will continue contributing to the Retirement System of the Government Employees of the Commonwealth of Puerto Rico. To that end, the Public LIDER School will deduct from its budget the corresponding employer contributions and, if applicable, the Treasury Department will retain the individual contributions required by Act No. 160-2013, as amended, from the salary of the employee.

Article 5.15.- Distribution of Funds among Public LIDER Schools

(a) In general.- The Chief Financial Officer will distribute the allocated funds to each Public LIDER School, in advance and on a quarterly basis, pursuant to Subsection (b) of Article 3.04 after deducting the payroll for a Public LIDER School administrated by a LIDER School Board and the contributions required by Article 5.14 of this Act corresponding to the applicable month.

(b) Use of Funds - Certified Educational Entities and LIDER School Boards, as applicable, can use funds of the Public LIDER School(s) they administrate in the way and manner that best advances the obligations and responsibilities established in their respective Educational Innovation Alliances.

(c) Administrative Expenses - Certified Educational Entities and LIDER School Boards cannot use more than twenty percent (20%) of their corresponding funds for administrative expenses, in accordance with the Educational Innovation Alliance. The Educational Alliances and Innovation Board will define what expenses are considered administrative.

#### Article 5.16.- Categorical Funds

The Puerto Rico Department of Education will direct a proportional share of moneys generated under assistance programs with federal and state categorical funds for the benefit of Public LIDER Schools serving students who are eligible for such assistance. Public LIDER Schools with fast-growing enrollment will be treated equally concerning the terms of the calculation and disbursement of all moneys generated under assistance programs with federal and state categorical funds. Public LIDER Schools serving students who are eligible to receive funds from such programs must meet all reporting requirements set forth for this purpose.

#### Article 5.17.- Sanctions for Failure to Make Payments

In the event of non-compliance with the payments required in this Chapter, the Puerto Rico Office of Management and Budget will deduct an amount equal to the unpaid obligation from any state funds allocated to the Puerto Rico Department of Education within thirty (30) days after the due date, and allocate said funds to the Educational Alliances and Innovation Board to be distributed among Public LIDER Schools. In addition, a penalty equivalent to ten percent (10%) of the unpaid amount will be imposed on the Department of Education or the Treasury Department, whichever is responsible for said non-compliance. This amount will be payable to the Educational Alliances and Innovation Board, which can use the funds deriving from that penalty to continue developing the public policy set forth in this Act. The Educational Alliances and Innovation Board upon consultation with the Puerto Rico Office of Management and Budget, the Treasury Department and the Puerto Rico Department of Education will promulgate regulations to implement the provisions of this Article.

#### Article 5.18.- Right to Judicial Review

Entities that have applied for certification as Certified Educational Entities and were denied, or Certified Educational Entities that have been certified and were denied an Educational Innovation Alliance will have the right to judicial review. Entities that have not submitted all documents required by the Educational Alliances and Innovation Board during the certification process or proposal evaluation for Educational Innovations Alliances will be automatically disqualified and cannot request a judicial review of the final decision made by the Educational Alliances and Innovation Board.

Judicial review can be requested after: (i) a final decision by the Educational Alliances and Innovation Board to not certify the Applicant as a Certified Educational Entity to receive an Educational Innovation Alliance, in accordance with the requirements set forth in this Act; or (ii) a final decision by the Educational Alliances and Innovation Board in the selection of the Certified Educational Entity that will receive an Educational Innovation Alliance with respect to one or more schools, in accordance with the requirements set forth in this Act.

The Judicial Review must satisfy the procedures set forth in this Article, which will replace any other procedure or criteria of jurisdiction and competence that would otherwise apply, in accordance with other applicable laws and regulations.

#### Article 5.19.- Request for Judicial Review

An entity that was not certified as a Certified Educational Entity or the Certified Educational Entity that was not selected to receive an Educational Innovation Alliance will have a jurisdictional term of twenty (20) days from the date on which the Educational Alliances and Innovation Board mails the notification of its final decision to request Judicial Review before the Court of Appeals, using the Auxiliary Jurisdiction of said Court. Interlocutory resolutions of the School Innovation Board are not subject to review; they can only be reviewed simultaneously with the final decision. Should the date of notification by the Educational Alliances and Innovation Board be different from the date on which said notification was postmarked, the term will be calculated from the postmark date. The review mechanism will not be applicable to the Educational Alliances and Innovation Board.

The review decree will be issued at the discretion of the Court of Appeals. Said Court must express itself regarding the requested review within ten (10) days from the date on which said review was requested. It can decide to grant the review, thus issuing a resolution indicating that it will issue the decree, or deny it outright, in which case it can issue an unfounded resolution. If the Court of Appeals does not express itself within ten (10) days after the review has been requested or denies the issuing of the decree, a jurisdictional term of twenty (20) days to appeal to the Puerto Rico Supreme Court through a writ of *certiorari* will begin. Be it understood that if the Court of Appeals does not express itself within ten (10) days after the review is requested and the twenty (20) day term to appeal to the Puerto Rico Supreme Court through a writ of *certiorari* begins, the Court of Appeals retains jurisdiction to express itself on the requested review at any time before the writ of *certiorari* is issued. If the Court of Appeals does not express itself within ten (10) days after the review is requested or denies the review, the twenty (20) day term will begin on the day following the tenth (10<sup>th</sup>) day after the review is requested in the Court of Appeals. If the Court of Appeals expresses itself regarding the review, a term of twenty (20) days will begin on the date that a copy of the notification of the resolution, order or judgment, as may be the case, is filed.

If the Court of Appeals grants the requested review, it must issue a final decision within thirty (30) days of the date on which the request for review was granted. Otherwise, the Court of Appeals will lose jurisdiction and the term of twenty (20) days to appeal to the Supreme Court will begin on the day following the end of the thirty (30) day term.

The requested review before the Court of Appeals and the petition for a writ of *certiorari* before the Supreme Court will be considered part of the petitioner's plea, unless the

reviewing court states otherwise. In the event that the Court of Appeals grants the requested review, the party adversely affected by the decision of said Court can appeal to the Supreme Court through a writ of *certiorari* within a jurisdictional term of twenty (20) days from the date on which a copy of the notification of the final decision by the Court of Appeals is filed.

#### Article 5.20.- Notification

In the event that a decision to deny a certification for receiving an Educational Innovation Alliance to a Certified Educational Entity is contested, the petitioner to the Puerto Rico Court of Appeals or Supreme Court will notify the Educational Alliances and Innovation Board with a copy of the petition. The petitioner must also notify the Certified Educational Entity selected to receive the Educational Innovation Alliance and other Certified Educational Entities that were not selected, provided that compliance with said notification will be a jurisdictional requirement. All notifications will be emailed and either sent by certified mail with acknowledgement of receipt or delivered personally with proof of delivery. Be it understood that if the dates of the notifications to the Educational Alliances and Innovation Board and other parties are different than the dates on which said notifications were postmarked, the term will be calculated from the date it was postmarked. The Educational Alliances and Innovation Board, and any other interested party, can express their opposition to the issuance of the decree within ten (10) days of the notification of the review request or *certiorari* or within the additional term granted by the Puerto Rico Court of Appeals or Supreme Court.

#### Article 5.21.- Effect of the Issuance of Judicial Review or *Certiorari*

The issuance of a judicial review by the Court of Appeals or a writ of *certiorari* by the Supreme Court will not stay the process of certification of entities, the process of evaluation of proposals for Educational Innovation Alliances, the selection of proposals for Alliances, the authorization of an Alliance by the Educational Alliances and Innovation Board to a Certified Educational Entity that was not disqualified, or the authorization of Educational Innovation Alliances. Neither will it stay the award and validity of a certification or an Educational Innovation Alliance or its terms and conditions, unless by express order of a Court with jurisdiction.

The Court will only be able to stay the award and validity of a certification of an entity or an Educational Innovation Alliance when the party requesting the stay demonstrates that it will otherwise suffer irreparable harm; that the stay order is indispensable to protect the jurisdiction of the Court; that there is great chance of prevailing on the merits of the case; that the stay order will not cause substantial harm to the other parties nor harm public interest; that there is no other reasonable way to avoid the alleged damages; and that the damages cannot be compensated by monetary remedy or any other remedy permitted by law. As a requirement for the issuance of a stay order, the Court with jurisdiction will require from the petitioner a bond to respond for all damages caused as a consequence of the stay. The mere loss of income for taking the risk of participating as an applicant or the mere loss of income or money for not being the selected applicant does not constitute “irreparable harm.”

Article 5.22.- Scope of Judicial Review

Decisions regarding the certification of an entity and the authorization of an Educational Innovation Alliance by the Educational Alliances and Innovation Board will be revoked only for obvious error, fraud, or arbitrariness.

Article 5.23.- Limitation of Harm

The petitioner cannot, under any circumstance, claim, as part of its remedies, the right to receive compensation for indirect, special or foreseeable damages, including lost income.

Article 5.24. Exclusivity of the Recourse

Any judicial review of a decision by the Educational Alliances and Innovation Board regarding the certification of an entity or the authorization of an Educational Innovation Alliance will only be made through the procedure set forth in this Chapter. No other type of lawsuit, action, procedure or recourse will proceed in any court, except as set forth in this Chapter.

Article 5.25. Civil Responsibility

This Act does not authorize actions for damages against the Educational Alliances and Innovation Board or any of its members, the Puerto Rico Department of Education or any of its officials or employees for any action or decision made in the process of evaluation, contract, revocation or renewal of an Educational Innovation Alliance; in the process of evaluation and approval of an application for certification as a Certified Educational Entity; or in the operation of a Certified Educational Entity under an Educational Innovation Alliance.

Article 5.26.- Subsection (l) of Section 1.1 of Act No. 160-2013, as amended, known as the Commonwealth of Puerto Rico Teacher's Retirement System Act, is hereby amended to read as follows:

“Section 1.1 – Definitions

...

(a)...

...

(l) Teacher.- The professionals who teach in the classroom, the School Principals and Vice Principals, and other teacher classifications and categories that exist or may exist within the nomenclature of the Department of Education of the Commonwealth of Puerto Rico, *including those professionals who teach at a Public LIDER School*, the Secretary of the Department of Education and assistant officers, and other employees who avail themselves of the benefits of this Act, pursuant to the provisions thereof, provided they hold a valid certificate to work as a teacher.

(m)...

...

(v)...”

Article 5.27.- Subsection (a) of Section 3.1 of Act No. 160-2013, as amended, known as the Commonwealth of Puerto Rico Teacher’s Retirement System Act, is hereby amended to read as follows:

“Section 3.1.- System Participants.

(a) The following persons shall be participants of the System and subject to all the provisions of this Act:

(1) Teachers in active service, *including those who teach in a Public LIDER School as defined in the Alliances in Public Education for the Commonwealth of Puerto Rico Act*,

...

(5)...”

Article 5.28.- Subsection (4) of Section 1-104 of Act No. 447 of May 15, 1951, as amended, is hereby amended to read as follows:

“Section 1-104

...

(4) Public enterprise. Shall mean

(a) any government instrumentality of the Commonwealth of Puerto Rico heretofore or hereafter created. It shall, however, not include those subsidiary enterprises of government instrumentalities whose employees, in the judgment of the Board of Trustees of the Retirement System, do not have a clear relationship of employee and employer with regard to the Government of Puerto Rico. Any officer or employee who is a participant of the System and becomes or has become an officer or employee of a subsidiary enterprise of any public enterprise without interruption in service shall continue to have the same rights and privileges as participant of the System, even if said subsidiary enterprise is not covered by the System, it being understood that the necessary employer contribution shall be made by the subsidiary enterprise in accordance with the provisions of this Act[.]; *and*

(b) *all Public LIDER Schools as defined in the Alliances in Public Education for the Commonwealth of Puerto Rico Act. Notwithstanding, only those employees of Public LIDER Schools who were non-teaching employees of the Puerto Rico Public Education System and who accepted work in a Public LIDER School through an administrative transfer can participate in the Retirement System of the Puerto Rico Commonwealth Employees Association. Paragraphs (a) and (b) of Section 1-110 of this Act will not apply*

*to non-governmental entities certified as Certified Educational Entities, as above mentioned.*

(5)...

...

(37)..."

## **CHAPTER VI.- COMPLIANCE WITH THE LAW**

### Article 6.01.- Citizen Action

All citizens will have active legal standing to initiate an action in their name against the Puerto Rico Public Education System to demand compliance due to any action or omission by the System in relation to the obligations set forth in this Act and in Act 149-1999, as amended, known as the Organic Act for the Department of Education of Puerto Rico.

For the purposes of this Chapter, "citizen" means any natural or legal person who is, or could be, adversely affected by an alleged violation of the provisions of this Act, mandates or orders issued or adopted in virtue of the same.

### Article 6.02.- Principles of Transparency and Accountability

(a) In accordance with the public policy established in this Act, all information, data, statistics, reports, plans and documents related to the public education of the Commonwealth of Puerto Rico will be public documents and subject to the following principles:

(1) The periodic dissemination of information must be complete, with the exception of any information that must be suppressed because it is privileged according to the Puerto Rico Rules of Evidence or classified as confidential by state and federal laws;

- (2) The disclosure of the information must be timely.
  - (3) Data must always be raw and detailed, not modified. In addition to the original version of the document in which the information or data appears, documents that organize and provide information that facilitate its use, and allow individuals without specialized knowledge in particular disciplines to interpret and utilize it, will be published and made available to the public;
  - (4) The information must not be subject to rules of confidentiality that are broader than necessary;
  - (5) Data must be processable by automated methods;
  - (6) The public will have access to the information electronically, free of charge, without having to register or create an account;
  - (7) Data produced by employees, officials or contractors for the Commonwealth of Puerto Rico will not be subject to any copyrights, patent rights, branding rights or commercial secrecy; and
  - (8) The format of the data must be non-proprietary. That is, no one should have exclusivity over its control.
- (b) All persons or entities to which these principles apply must designate an official to attend and respond to any questions that users have about the published data and to ensure compliance with federal and state laws pertaining to access to information.

## **CHAPTER VII.- TRANSITORY PROVISIONS**

### Article 7.01.- Interpretation of the Act

The provisions of this Act must be interpreted broadly to support its purposes and advance the public policy established in the same. Thus, the provisions of this Act will be

interpreted liberally to reach its purposes and, wherever a specific power or authority is hereby granted, the enumeration will not be interpreted as excluding or limiting any other power or authority otherwise conferred.

Article 7.02.- Supremacy Clause

Before any inconsistency between the current legislation or regulations and the provisions included in this Act, the supremacy of this legislation is set forth along with the corresponding amendment or repeal of any inconsistency with this mandate.

Article 7.03.- Separability Clause

If any article, subsection, part, paragraph or clause of this Act, or its application to any person or situation, is declared unconstitutional by a Court with jurisdiction, the ruling will not affect or invalidate the rest of the provisions of this Act; rather, its effect will be limited to and extend only to the article, subsection, part, paragraph or clause of this Act, or its application, that has been declared unconstitutional.

Article 7.04.- Term

This Act will take effect immediately after its approval.