



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**Office for Civil Rights**

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Ciení Rodríguez Troche  
Secretary  
Departamento de la Familia de Puerto Rico  
P.O. Box 194090  
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OCR Reference Number: **20-367326** (Selena Santos v Department of the Family) & **21-411817** (Carlos Rivera v Department of the Family)

Dear Ms. Rodríguez:

The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaints against the Puerto Rico Department of the Family (the Department of the Family), Administration for Families and Children (ADFAN). The complaints allege that ADFAN failed to provide two deaf mothers with appropriate auxiliary aids and services, thereby denying them an equal opportunity to participate in or benefit from programs and services offered by ADFAN.

Specifically, Selena Santos alleged that beginning in November 2019 and throughout its involvement with her family, despite several requests, ADFAN failed to provide her with a sign language interpreter who was able to interpret the sign language that is native to the Orocovis Region in Puerto Rico. Carlos Rivera Rivera alleged that between January 11-14, 2021, ADFAN failed to provide Janet Viera Grau with an auxiliary aid (a sign language interpreter) during the course of ADFAN's investigation and removal of her two minor children.

OCR conducted its investigations pursuant to its authority under Title II of the Americans with Disabilities Act (ADA) and its implementing regulation 28 C.F.R. Part 35, which applies to public entities providing health care and social

services and Section 504 of the Rehabilitation Act of 1973 and its implementing regulation, 45 C.F.R. Part 84 (Section 504). As a Commonwealth agency, the Department of the Family is required to comply with the requirements of the ADA. The Department of the Family is also a recipient of Federal financial assistance (FFA) from the U.S. Department of Health and Human Services (HHS) and is required to comply with Section 504 and its implementing regulation.

OCR communicated with the complainants and the Department of the Family staff. OCR reviewed relevant documents provided by ADFAN, including copies of all case notes and case plans related to Ms. Santos and Ms. Viera. OCR also reviewed the Department of the Family's policies and procedures including those pertaining to language needs, practices, and resources for the provision of auxiliary aids.

During the course of the investigations, OCR identified compliance concerns relating to the Department of the Family's provision of auxiliary aids and services and discussed these concerns with the Department of the Family's designated representatives. With OCR's guidance, the Department of the Family promptly implemented measures to strengthen its existing effective communication policies and procedures.

The Department of the Family implemented all of OCR's recommendations, including revising its effective communication policies and procedures to address the requirements of the ADA and Section 504, and their implementing regulations. As a result of these revisions, its new Disability Effective Communication Policy:

- Identifies and provides the contact information, role, and responsibilities of a Department of the Family Disability Coordinator;
- Identifies resources and services that may be used in an effort to provide individuals with disabilities involved with the Department of the Family programs with auxiliary aids;
- Streamlines a process for requesting auxiliary aids and services within the local and regional ADFAN offices, allowing caseworkers to request sign language interpreting services directly from the interpreting agency without prior approval from the regional ADFAN offices;
- Requires that the Department of the Family staff document the provision (or lack thereof) of auxiliary aids and services to participants with disabilities;

- Details a process for participants and their representatives to make a disability-related complaint (including a complaint of disability discrimination) to the Department of the Family;
- Provides a process by which the Department of the Family's child protection agency, ADFAN, will request auxiliary aids for emergency visits/removals and contingency planning; and
- Acknowledges specific needs for some members of the deaf and hard of hearing communities in Puerto Rico for native/regional sign language resources.

In addition to adopting these new policies and procedures, the Department of the Family also:

- Entered into a contract with a sign language interpreting agency, which includes the availability of video remote interpreting, native/regional sign language interpreters, and interpreting services 24 hours a day, 7 days a week;
- Developed a training program that provides an overview of deaf culture and how to request and access sign language interpreter resources, including video remote interpreting; and
- Provided training to all Department of the Family staff, including ADFAN's social workers.

The Department of the Family has also committed to taking the following additional actions to strengthen its existing ADA and Section 504 compliance program:

- Develop a Nondiscrimination Notice which will be a short, plain language document (at an appropriate literacy level) to notify individuals involved with ADFAN's child welfare program (including parents, foster parents, prospective parents, advocates, and attorneys) of the Department of the Family's Disability Effective Communication Policy, including, but not limited to, the process to make a request for auxiliary aids and services and the process to initiate disability discrimination complaints.

The Nondiscrimination Notice should state that the Department of the Family is prohibited from placing a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of the provision of auxiliary aids or other services that are required

to provide that individual or group with nondiscriminatory treatment. The Nondiscrimination Notice should prominently display the contact information (including a mailing address, email address, phone number, TTY number, videophone number, and toll-free number) for the Disability Coordinator. The Nondiscrimination Notice should also make clear that the availability and use of the Department of the Family's disability complaint process do not prevent a person from filing a complaint of disability discrimination with the HHS and should include relevant contact information for HHS.

- Create a policy that includes a process for reviewing what reasonable modifications and auxiliary aids and services have been provided to date to participants, and whether they are still adequate and appropriate, at every case management and case planning meeting with the family. This process will include ongoing monitoring and auditing of activities, and may include planned case file reviews of deaf and/or hard-of-hearing participants. The policy should make clear that this should be a collaborative, interactive process with the family, and that the Department of the Family must give primary consideration to the auxiliary aid or service requested by the individual with a disability.
- Create a process for informing ADFAN's service providers, including its contractors and other state agencies, when a reasonable modification or auxiliary aid or service may be necessary to ensure equal opportunities for people with disabilities.

Additionally, the Department of the Family committed that, during the year following the date of this letter, the Department of the Family (through its designated representative) will periodically update OCR on significant activities relating to the Department of the Family's implementation of the foregoing measures. OCR agreed to continue to serve as a technical assistance resource throughout that year, as reasonably necessary and as requested by the Department of the Family.

Based on the above-described commitments and actions, OCR has determined that further investigation is not necessary, and OCR has closed the case as of the date of this letter.

This closure is not intended, nor should it be construed, to cover any issues regarding the Department of the Family's compliance status with any issues or authorities not specifically addressed in this letter nor does the determination preclude future compliance determinations based on subsequent investigations.

Please note that no private or public entity, recipient of HHS Federal financial assistance or other person may intimidate, threaten, coerce, or discriminate against an individual because he or she has made a complaint, testified, assisted, or participated in any manner in an action to secure rights protected by the civil rights statutes enforced by OCR. See 28 C.F.R. § 35.134; 45 C.F.R. § 80.7(e); 45 C.F.R. § 84.61 (making 45 C.F.R. § 80.7(e) applicable to Section 504 complaint investigations).

Thank you and your staff for your cooperation throughout the investigation process. If you have any questions, please contact Linda C. Colón, Regional Manager, Eastern & Caribbean Region, at (212) 264-4136 or via email at [linda.colon@hhs.gov](mailto:linda.colon@hhs.gov).

Sincerely,

/s/

Melanie Fontes Rainer  
Director

CC: Glenda Gerena Rios  
Sub-Administrator  
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