

RESOLUTION AGREEMENT

East Orange School District Case No. 02-11-5002

In order to resolve Case No. 02-11-5002, the East Orange School District assures the U.S. Department of Education, New York Office for Civil Rights (OCR) that it will take the actions detailed below pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1: Practices and Procedures for Making Placement Decisions

By November 30, 2012, the District will revise its practices and procedures for making placement decisions regarding qualified individuals with disabilities, to ensure that the group of knowledgeable persons places disabled students in the regular educational environment, unless the group demonstrates, in writing, that education of the disabled student in the regular educational environment cannot be achieved satisfactorily even with the use of supplementary aids and services. At a minimum, the District's practices and procedures will require the group to document the following:

- Supplementary aids and services attempted in the regular educational environment and why these were chosen for the individual student;
- A description of how these supplementary aids and services were implemented;
- A statement regarding the amount of time these supplementary aids and services were implemented; and,
- A statement regarding why education of the student in the regular educational environment could not be achieved satisfactorily even with the use of these supplementary aids and services; or,
- A demonstration in an evaluation report based on a comprehensive evaluation by a psychologist, psychiatrist, or other educational diagnostician that the student's disability is so severe that attempting supplementary aids and services in the regular educational environment is not necessary to demonstrate that education of the disabled student in the regular educational environment cannot be achieved satisfactorily with the use of supplementary aids and services.

Reporting Requirements:

- a) By November 30, 2012, the District will provide to OCR a draft of its revised practices and procedures consistent with the Action Item above.
 - i. OCR will review the revised practices and procedures and advise the District whether OCR approves the revised practices and procedures.
 - ii. Within fifteen (15) days of the District's receipt of OCR's approval of the revised practices and procedures, the District will formally adopt these practices and procedures, and update any printed publications or on-line publications with the revised practices and procedures.

- b) By January 31, 2013, the District will provide documentation to OCR demonstrating that the revised practices and procedures were disseminated to all administrators, teachers and other staff authorized to make placement decisions for disabled students.
- c) By January 31, 2013, and periodically thereafter, the District will train all administrators, teachers, and other staff authorized to make placement decisions for disabled students on the District's revised practices and procedures. The District will provide OCR with documentation demonstrating that it has provided the initial training by January 31, 2013, including: (a) the name(s) and title(s) of the individuals who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; and (d) copies of any training materials disseminated.

Action Item 2: Students Currently Placed in Self-Contained Settings

During school year 2012-2013, in conjunction with annual reviews, the District will review the placement of all disabled students in self-contained settings, to ensure that these students are in the appropriate educational setting. The District will utilize the revised practices and procedures developed in accordance with Action Item 1 above in making determinations regarding placement in a self-contained setting. If the group determines that the student is not in the appropriate educational setting, the District will immediately conduct a reevaluation and place the student appropriately. Any reevaluations should be conducted within 30 days of the group's determination, but no later than May 31, 2013; and, placement decisions should be made within 30 days after the completion of the reevaluation, but no later than August 31, 2013. Additionally, the District will consider whether a student requires compensatory services if the group determines that the student was not in the appropriate educational setting. Any compensatory services must be provided no later than December 31, 2013. The District will ensure that each of these students is placed in the regular educational environment (i.e., the least restrictive environment), unless it is demonstrated that the education of the student in the regular environment cannot be satisfactorily achieved even with the use of supplementary aids and services. Additionally, the District will ensure that parents/guardians are advised of their right to request a due process hearing if they disagree with the placement decision.

Reporting Requirements: By September 30, 2013, the District will provide the following to OCR:

- a) A list of all disabled students who were placed in self-contained settings at the beginning of school year 2012-2013;
- b) Documentation supporting that during each of these students' annual reviews during school year 2012-2013, the group ensured that these students had a current evaluation on file and that the group followed the revised practices and procedures developed in accordance with Action Item 1 above in determining the appropriate educational setting for the student;
- c) If the group determined that a student did not have a current evaluation on file, documentation demonstrating that the District reevaluated the student;
- d) If the group determined that documentation did not support that a student was placed in the least restrictive environment, documentation demonstrating that the District changed the student's placement to the least restrictive environment and considered whether the student needed any compensatory services;

- e) If the group determined that the student needed compensatory services, a copy of the plan for providing those services; and
- f) Documentation demonstrating that parents/guardians were advised of their right to request a due process hearing if they disagreed with the placement decision.

Action Item 3: Newly Classified Students

Effective immediately, the District will ensure that all students initially determined to be in need of special education and/or related aids and services are placed in the least restrictive environment.

Reporting Requirements: By June 30, 2013, June 30, 2014, and June 30, 2015, for school years 2012-2013, 2013-2014, and 2014-2015 respectively, the District will provide to OCR a list of students initially classified during the respective school year; a copy of each of these students' Individual Educational Programs demonstrating that the District followed the revised practices and procedures developed in accordance with Action Item 1 above in determining the appropriate educational setting for the student; and, documentation demonstrating that parents/guardians were advised of their right to request a due process hearing if they disagreed with the placement decision.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§104.33, 104.34, 104.35 and 104.36, and the ADA, at 28 C.F.R. §35.130(d), which were at issue in this case. The District also understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further the District understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§104.33, 104.34, 104.35, and 104.36, and the ADA, at 28 C.F.R. §35.130(d), which were at issue in this case. In addition, the District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

9/27/12
Date

/s/

Dr. Gloria C. Scott
Superintendent of Schools
East Orange City School District