

Regional School Unit 13 (Tenant's Harbor)
OCR Complaint No. 01-14-1163
Resolution Agreement

The U.S. Department of Education's Office for Civil Rights (OCR) investigated this complaint according to OCR's jurisdiction under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II). Regional School Unit 13 (District) voluntarily agrees to take the following steps to address the compliance concerns that OCR identified through its investigation. The District denies that it has violated Section 504 or Title II.

I. POLICIES AND PROCEDURES

- A.** During the course of OCR's investigation, the District added a "504 Resources" section, which includes revised policies on Child Find, Notice of Procedural Safeguards, Non-Discrimination/Equal Opportunity Policy, as well as a Section 504 Handbook, In-Depth Teacher Guide to 504, and forms for Notice of a 504 Meeting, Eligibility, Manifestation Determination, Consent to Conduct Evaluation and Parental Consent to Initial Placement (together, Revised Policies and Procedures). The District has provided these materials to OCR, for review and approval, as part of the resolution for this complaint.
- B.** The District agrees to incorporate any changes to ensure compliance with the obligations of Section 504/Title II that may be requested by OCR, with input from the District, no later than 60 days after OCR makes such requests, if any. The District also agrees that these further Revised Policies and Procedures will supplant the District's current policies and procedures regarding identification, evaluation, placement and due process according to Section 504/Title II within that same time.
- C.** **Within 60 days** of OCR's approval of the further-revised policies and procedures, the District will disseminate a memorandum to District staff who are involved in the identification, evaluation and placement of students according to Section 504/Title II, to apprise such staff of these policy changes. **Within 10 school days** of issuing this memorandum, the District shall provide to OCR a copy of that memorandum, as well as evidence of its dissemination, such as the distribution list or email by which it was sent.
- D.** Also **within 60 days** of OCR's approval of the further-revised policies and procedures, the District will publish these documents on its website. **Within 10 school days** of that action, the District will provide OCR with evidence of its publication of the new policies and procedures by providing OCR with the URL to review the further-revised policies and procedures.

II. TRAINING

- A.** The District has represented to OCR that, following OCR's onsite, the newly-appointed Director of Special Education/Section 504 Coordinator (Coordinator) provided training on Section 504/Title II's obligations regarding eligibility, and Section 504's obligations

regarding evaluation, placement and discipline, for all of the District's 504/Title II Building Coordinators (along with the Principals for each school building in the District, if they are not the 504 Coordinator for their building), as well as for all St. George School instructional staff, including teachers, administrators and service providers (e.g., guidance counselor, Board Certified Behavioral Analysts (BCBA) and special education staff at the St. George School.

- B. The District represented to OCR that the above training included the following topics:
 - 1. Eligibility criteria under Section 504 and Title II (including information on the ADA Amendments Act of 2008);
 - 2. Evaluation and placement requirements according to 34 C.F.R. Sections 104.35(b) and (c), including that the District is responsible for conducting evaluations for students who need or are believed to need special education or related services due to disability;
 - 3. The intersection of Section 504/Title II and the disciplinary process; and
 - 4. The District's Section 504/Title II evaluation and placement processes and how they interface with the District's early intervention and IDEA processes.

- C. The District will provide to OCR the content of that training, as well as a list of individuals, by name and title, who received the training, **within 15 business days** of the date this Agreement is signed.

- D. If, upon reviewing the training provided, OCR finds that additional training with revised materials is necessary, the District will provide such training to all District 504 Coordinators, and will invite the St. George School staff and the 504 Coordinator for the St. George District to participate.
 - 1. Any additional training required by OCR will be conducted by an individual with expertise in Section 504 and Title II, subject to the approval of OCR.
 - 2. All training materials for any additional training must be submitted for OCR review and approval **at least one week prior to** the training.
 - 3. Any additional training required by OCR will be conducted **within 30 days** of OCR approving the training materials and presenter, and will be provided no later than 3 months from when OCR provided the District notice that additional training is needed.
 - 4. The District will provide OCR with evidence of having conducted each of the trainings, and participant attendance (such as staff sign-in sheets, including titles), **within 15 business days** of conducting each supplemental training.

III. OUTREACH TO PARENTS

- A. The Director of Special Education/ Section 504 Coordinator will host a district-wide informational meeting about Section 504/Title II for parents, to occur no later than **September 15, 2015**.

- B. The meeting will include a presentation on the District's obligations under Section 504/Title II regarding eligibility, evaluation, placement discipline, and the intersection of Section 504/Title II with the IDEA process. The training will include the following topics:
 - 1. Eligibility criteria under Section 504 and Title II (including information on the ADA Amendments Act);
 - 2. Evaluation and placement requirements according to 34 C.F.R. Sections 104.35(b) and (c), including that the District is responsible for conducting evaluations of students who need or are believed to need special education or related services due to disability;
 - 3. The intersection of Section 504/Title II and the disciplinary process; and
 - 4. The District's Section 504 evaluation and placement processes and how they interface with the District's early intervention and IDEA processes.
- C. By **October 1, 2015**, the District will provide OCR with documentation evidencing that this meeting occurred, i.e., copies of the presentation provided as well as sign-in sheets for attendees.

IV. REEVALUATION FOR OTHER POSSIBLE 504/TITLE II- ELIGIBLE STUDENTS

- A. By **July 15, 2015**, the District will provide a description to OCR of the process by which it will identify students at St. George School who, because of disability, may be in need of special education or related services according to Section 504/Title II, but have not been identified as such pursuant to Section 504/Title II during the 2013-2014 school year. This process could include reviewing discipline and attendance records, emergency and medical files kept by the school nurse, and/or reconsideration of requests by parents for Section 504 evaluations.
- B. A Section 504 Team will be convened for each student identified via the process developed in accordance with Paragraph A, above.
 - 1. Each 504 Team will be comprised of individuals who are knowledgeable about: the particular student, the meaning of any evaluative data (such as disciplinary records, academic performance, and medical and/or educational evaluation information), and the placement options.
 - 2. Each team will consider:
 - a. The information noted in paragraph A, as well as any additional evaluative data;
 - b. The student's eligibility for special education or related aids and services, i.e., whether the student is an individual with a physical or mental impairment that substantially limits one or more major life activities (such activities include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, speaking, breathing, learning and working); and
 - c. What regular or special education and related aids and services are necessary to meet that student's individual needs as adequately as the needs of non-disabled individuals are met (i.e., the student's appropriate placement).

3. In making these determinations, the 504 Teams will consider the student's academic performance, as well as any interventions for behavior that that were raised to the building grade team level and/or resulted in an in-school suspension and/or out-of-school suspension.
- C. By **October 1, 2015**, the District will provide OCR with documentation evidencing that these steps occurred, including providing the 504 team notes and any resulting Section 504 Plans for each student found eligible.

V. **THE STUDENT**

- A. The District's 504 Coordinator will serve as the Complainant's liaison for arranging the following events.
- B. The District agrees to offer to provide 8 sessions of counseling for the Student to be completed by **December 31, 2015**. These sessions will be with a provider agreed upon by the Complainant and District. The District will not provide make-up sessions for any that are missed without sufficient prior notice to the provider that does not require the District to pay for unattended sessions.
- C. By **July 15, 2015**, after providing proper written notice to the Student's parents, a group of knowledgeable persons, including the parents, will determine whether the Student requires compensatory services as a result of the District's failure to provide appropriate regular and/or special education or related services for the 2013-2014 school year beyond the 8 sessions of counseling outlined in V.B above. To make this determination, the Team will:
 1. Review, discuss and document the Student's: academic losses, if any, in the 2013-2014 school year, including the amount of time he spent outside of the classroom as either an intervention or disciplinary consequence; present levels of academic and social functioning; final grades for the 2013-14 school year; the grades and disciplinary record for the 2014-2015 school year (including any "informal" discipline such as removal from the classroom); services that he already received to address any such losses, including but not limited to the tutoring provided during the summer of 2014; and, input from his parents.
 2. Provide the parents with notice of their procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.
- D. If the Team determines such services are necessary, **within 10 school days** of its determination, the group will develop a plan for providing timely compensatory services with a completion date not to extend beyond **December 31, 2015**. The District will provide the Student's parents notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.
- E. **Within 10 school days** of the decision as to whether compensatory services are necessary, the District will submit to OCR for review and approval, documents supporting the group's

decision, including: a sign in sheet of attendees by name and title; an explanation for decisions made and the information considered, specifically including the group's discussion of the information noted at Paragraph (V)(C)(1); and a description of and schedule for providing any necessary compensatory services to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulations implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

- F. By **June 1, 2016**, in the event that the District determines it necessary to provide compensatory services, it will provide documentation to OCR of the dates, times and locations that compensatory services were offered, a description of what was offered and provided, and the name(s) of the service provider(s).

The District 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, including any out-of-District placement, 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 regulation implementing Section 504 at 34 C.F.R. Section 104.33 et seq. and the regulation implementing Title II, at 28 C.F.R. Section 35.130, which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. Section 104.33 et seq. and the regulation implementing Title II, at 28 C.F.R. Section 35.130.

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.

John McDonald
Superintendent of Schools
Regional School District #13

Date