

**Resolution Agreement  
Shelby County Schools (TN)  
OCR Complaint # 04-13-1279**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), initiated the above-referenced investigation of Shelby County Schools (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit recipients of Federal financial assistance from the Department from discriminating on the basis of disability; and, Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

The District agrees to take all steps reasonably designed to ensure that students enrolled in the District are not subject to a hostile environment, on the basis of disability, and to respond to allegations of harassment, including physical abuse, on the basis of disability. To this end, the District will promptly investigate all incidents and complaints of harassment, including physical abuse, of students on the basis of disability that are known or reasonably should have been known to the District and will take appropriate action to respond to complaints. Such action may include disciplinary action against staff or students found to have violated its Anti-Harassment Policies and Procedures or otherwise engaged in harassment in violation of Section 504 or Title II. The District understands that it has an obligation to promptly investigate all complaints of harassment and bullying, on the basis of disability, regardless of whether the same complaint or allegations have been filed with the District's police department or the Department of Children Services and are being investigated by those entities. The District will take prompt and effective responsive action reasonably designed to end the hostile environment, if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on the affected student(s).

This Agreement has been entered into voluntarily by the District and does not constitute an admission by the District that it is not in compliance with Section 504 or Title II or their implementing regulations. Accordingly, to ensure compliance with Section 504 and Title II and their respective implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions:

**Student-Focused Remedies**

1. By **May 1, 2016**, in a letter to be sent by certified mail to the Complainant and to the parents of other students in the 2012-2013 Special Education Preschool Class<sup>1</sup> (Students), the District will offer to provide counseling services to the Students at the District's expense for up to six months in order to remedy the effects of the alleged hostile environment based on disability found at Bon Lin Elementary School (School). In the letter to the Complainant and other parents (parent letter), the District will provide the parents with a deadline of thirty (30)

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<sup>1</sup> This provision applies only to the Special Education Preschool Class at Bon Lin Elementary in which the Complainant's daughter was a student.

days from the date of the letter to respond to the District's offer to provide counseling services. The counseling services will be provided by qualified employees of the Shelby County Schools Mental Health Center (SCSMHC). The SCSMHC will serve as the central location where the counseling services will be provided, unless both the District and the parent mutually agree to another arrangement. The District will contact the gaining school districts to obtain the current contact information for the Students in order to send the parent letter. If the contact information is not provided by the gaining school districts (or they refuse to cooperate), the District will document the gaining school districts' replies (or lack thereof). If the gaining school districts fail to respond or cooperate, the District will send the parent letter to the Students' last known address on file with the District.

In addition, the letter will notify the Complainant and parents that if the Students re-enroll in a District school within one calendar year from the date of the letter, the District will provide academic or other support services to the Students to remedy the effects of the hostile environment. If any Student re-enrolls in the District and the Complainant and/or other parents' consent to such services, the District, in consultation with the parents of each respective student, will identify appropriate academic and support services and provide those services within 60 days of the Student's re-enrollment.

**REPORTING REQUIREMENT:** By **May 15, 2016**, the District will provide OCR with copies of the letters sent to the Complainant and other parents and their responses, including documentation demonstrating the initiation of any agreed upon counseling services or a parent's declination or failure to respond to the District's offer by the deadline.

**REPORTING REQUIREMENT:** By **July 15, 2016**, the District will provide a report identifying all Students who re-enrolled in a District school since August 2015 and documentation demonstrating that the District has sought to obtain the consent described above, and if consent was obtained, a description of agreed upon services and evidence that such services were provided.

### **District Statement Regarding Harassment**

2. By **May 1, 2016**, the Superintendent and School Board will issue a statement to the District's students, parents and staff that will be printed in the District's newsletter, website, and student handbook and posted in prominent locations at the District, stating that the District does not tolerate harassment on the basis of disability. The statement will encourage any student who believes that he or she has been subjected to harassment on the basis of disability to report the harassment to the District, and note the District's commitment to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. The statement will include the appropriate contact information for the individual designated to receive complaints of harassment on the basis of disability. The statement will warn that students or employees found to have engaged in acts of harassment on the basis disability will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension or expulsion for students or suspension or termination for employees. The statement will encourage students, parents and School staff to work together

to prevent harassment on the basis of disability. The School will distribute this statement in languages other than English, as necessary.

**REPORTING REQUIREMENT:** By **May 15, 2016**, the District will provide OCR with a copy of the statement referred to in Item 2 along with a description of where the statement was published.

### **Training of Applicable Staff Regarding Proper Investigative Techniques**

3. By **September 30, 2016**, the District will initiate annual, mandatory training for all District administrators and staff responsible for conducting the investigations of incidents and complaints alleging discrimination or harassment on the basis of disability on (a) the duty to investigate such incidents or allegations (verbal or written) and (b) how to conduct the investigation of discrimination or harassment complaints and reports.

**REPORTING REQUIREMENT:** By **October 30, 2016**, the District will provide OCR with a report confirming the completion of the training required under Item 3 above. The documentation shall include: (a) the date of the training session(s); (b) a list of names and titles of applicable staff who participated in the training session; and (c) a copy of the agenda and training materials disseminated.

4. The District will provide<sup>2</sup> annual training on its revised grievance procedures and policies for addressing complaints of discrimination or harassment on the basis of disability.

**REPORTING REQUIREMENT:** By **November 30, 2016**, the District will provide a report confirming the completion of the training required under Item 4 above. The documentation shall include: (a) the date of the training session(s); (b) a list of names and titles of applicable staff who participated in the training session; and (c) a copy of the agenda and training materials disseminated

### **Record Keeping Requirement**

5. The District agrees to maintain accurate records on all reports of disability harassment, including physical abuse. The records should include the District's investigation of the charge or offense, the discipline imposed, the corrective actions taken to stop further disability harassment, and remedies provided to student(s) who were subjected to the harassment or abuse.

**REPORTING REQUIREMENT:** By **September 1, 2016**, the District will provide to OCR all the records maintained by the District, pursuant to Item 5 above for the 2015-2016 school year.

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<sup>2</sup> The District agreed to initiate such annual training pursuant to an Agreement resolving OCR complaint #04131220. Pursuant to this Agreement, the District will demonstrate the continuation of the required training.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner to accord 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. §§ 104.4(a) and (b)(1)(i)-(ii) and (vii), and the regulation implementing Title II at 28 C.F.R. §§ 35.130(a) and (b)(1)(i)-(ii) and (vii).

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. §§ 104.4(a) and (b)(1)(i)-(ii) and (vii), and the regulation implementing Title II at 28 C.F.R. §§ 35.130 (a) and (b)(1)(i)-(ii) and (vii), which were at issue in this case.

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.

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**Superintendent**

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**Date**