

**Resolution Agreement  
Metropolitan Nashville Public Schools  
OCR Docket Number 04-13-1333**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Metropolitan Nashville Public 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 discrimination on the basis of disability by recipients of Federal financial assistance; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this complaint pursuant to Section 302 of OCR's *Case Processing Manual* (CPM).

The District agrees to take all steps reasonably designed to ensure that students enrolled in Bellshire Elementary Design Center (School) are not subject to a hostile environment on the basis of disability and that the District will promptly investigate all incidents and complaints of harassment. Harassing conduct may take many forms, including verbal acts and name calling; graphic and written statements, which may include use of cell phones or the internet; or other conduct that may be physically threatening, harmful or humiliating. 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). Accordingly, to ensure compliance with Section 504 and Title II, and their implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions:

**SECTION 504 & TITLE II GRIEVANCE PROCEDURES**

1. By January 31, 2014, the District will submit to OCR for its review and approval draft Section 504 and Title II grievance procedures to address complaints of disability discrimination (including disability harassment) alleged to have been committed by employees, third parties (such as members of the general public or vendors), or students. The District will ensure that these procedures provide for the prompt and equitable resolution of complaints alleging disability discrimination, including harassment, and will include, at a minimum, the following:
  - a. notice to students, parents and employees of the procedures, including where complaints may be filed;
  - b. application of the procedures to complaints of discrimination (including harassment) carried out by employees, students or third parties;
  - c. provision for prompt, adequate, and impartial investigation of all complaints, including the opportunity for the complainant and subject of the complaint to present witnesses and other evidence;

- d. designated and reasonably prompt timeframes for the major stages of the investigation;
- e. written notification to the complainant and subject of the complaint of the outcome of the investigation; and,
- f. An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the Student and others, if appropriate.

REPORTING REQUIREMENT: By January 31, 2014, the District will submit to OCR for its review and approval its Section 504 and Title II grievance procedures referenced in Item #1.

2. By August 15, 2014, or within 45 days of receipt of notice of OCR's approval of the grievance procedures described in Item #1, whichever is later, the District will adopt, implement, and publish them. The revised grievance procedures will be published in full in all handbooks distributed to parents, students, or employees effective with the beginning of the 2014-2015 school year, as well as on the School's website.

REPORTING REQUIREMENT: By August 29, 2014, the District will provide all copies of the published policies and procedures which contain the revised grievance procedures, which it plans to disseminate for the 2014-2015 school year and a link to the webpage containing the procedures.

### **STAFF AND FACULTY TRAINING**

3. By September 1, 2014, or within 45 days of receipt of notice of OCR's approval of the grievance procedures described in Item #1, the District will initiate annual training of all teachers, administrators, the District's Section 504 Coordinator and any other District personnel who will be directly involved in processing, investigating, and/or resolving complaints of disability discrimination (including disability harassment), or who will otherwise coordinate the District's Section 504 and Title II compliance. The training will include the policies and procedures referenced in Item #1 of this Agreement.
4. By September 1, 2014, the District will initiate annual training to all teachers and administrators at the School regarding a) the Section 504 and Title II prohibition against disability discrimination and harassment; and b) notifying personnel of their responsibility to report incidents of possible discrimination and harassment based on disability and the procedures for doing so, and provide instruction on how to recognize, prevent and respond appropriately to such harassment. The District will ensure that all administrators charged with investigating harassment allegations and the Student's former and current teachers attend the training.

REPORTING REQUIREMENT: By September 15, 2014, the District will provide OCR with a written certification that the trainings in Items #3 and #4 took place, including:

- a. The dates of the trainings;

- b. The topics covered during the trainings and the amount of time spent on each topic;
  - c. The name and credentials of the trainer(s); and
  - d. A copy of the materials used in the trainings.
5. By August 15, 2014, the District will arrange for a behavioral therapist to provide training to all teachers who teach students with disabilities at the School on how to respond appropriately to their students' behavioral issues.

**REPORTING REQUIREMENT:** By August 29, 2014, the District will provide OCR with the following documentation:

- a. The dates of the trainings;
- b. The topics covered during the trainings and the amount of time spent on each topic;
- c. The names and titles of all teachers who attended the training;
- d. The name and credentials of the trainer(s); and
- e. A copy of the materials used in the trainings.

### **STUDENT FOCUSED REMEDIES**

6. By March 15, 2014, the District will reinvestigate the Teacher at issue in the Complaint to determine whether the Teacher created a hostile environment for the Student based on disability. The investigator should have no prior affiliation or working relationship with the School at issue or any staff assigned to the School. The investigation will not be limited to formally reported incidents and will proceed in accordance with applicable Section 504 standards. The investigation will include interviews with the Complainant and witnesses she identifies, staff members, the Student -Teacher, and current and former students. The District will prepare a written determination and notify the Complainant concerning the outcome of the investigation by April 15, 2014. If the investigation reveals that a hostile environment existed, the District in consultation with the Complainant and Student, will assess whether any hostile environment related to the incident has been fully eliminated and, if needed, develop a plan to protect the Student from any form of future harassment. The District will also take appropriate corrective or disciplinary action against personnel, including the Teacher, found to have created or ignored a hostile environment for the Student.

**REPORTING REQUIREMENT:** By April 15, 2014, the District will provide OCR with: (a) a summary of its investigative steps, including a list of all witnesses interviewed and a summary of their statements; a copy of its written findings and notice of the outcome to the Complainant; (b) a report of the meeting held with the Complainant and the Student to assess the current environment, and a copy of any plan that was developed to protect the Student from further harassment, if applicable; and (c) if applicable, a summary of action(s) taken against the Teacher or other personnel, as well as other actions it has taken to remedy the effects of the harassment at the School in response to the findings.

7. By April 15, 2014, if the District determines that a hostile environment existed following the investigation outlined in Item #6, the District will offer psychological counseling and

academic or other support services to the Student and other affected students, if any, to remedy the effects of the hostile environment. If the Complainant consents to such services, the District will immediately begin providing the services.

**REPORTING REQUIREMENT:** By April 30, 2014, the District will provide OCR with: (a) a copy of its written offer of counseling and educational services provided to the Complainant and, if applicable, the parents of other students; and (b) copies of the Complainant's response, including documentation demonstrating the initiation of any agreed upon services.

8. The District will not assign the Student to any classes with the Teacher in the future and by December 30, 2013, will send the Complainant a written assurance that the Student will not be assigned to any classes in the future with the Teacher.

**REPORTING REQUIREMENT:** By January 31, 2014, the District will provide OCR with a copy of the written assurance outlined in Item #8.

### **DISTRICT STATEMENT REGARDING HARASSMENT**

9. By August 15, 2014, 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, student handbook and posted in prominent locations at the School, 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 of 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 District staff to work together to prevent harassment on the basis of disability. The District will distribute this statement in languages other than English, as necessary.

**REPORTING REQUIREMENT:** By August 29, 2014, the District will provide OCR with a copy of the statement referred to in Item #9 along with a description of where the statement was published.

### **CLIMATE SURVEY**

10. By June 1, 2014, and annually thereafter, the District will conduct a climate survey of students at the School to assess the effectiveness of steps taken pursuant to this Resolution

Agreement or otherwise by the District, to achieve its goal of a District free of harassment. Students' participation in the survey will be voluntary. For those students who may be too young or unable to express themselves in a survey, the District will create an alternate form of assessment.

**REPORTING REQUIREMENT:** By September 30, 2014, the District will provide OCR with documentation demonstrating implementation of the survey, including a description of how the survey was completed, copies of any Student responses to surveys, summaries of other information obtained, and proposed actions, if appropriate, that the District plans to take in response to the information gathered during the survey.

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, 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 Section 504 and Title II implementing regulation at 34 C.F.R. §§ 104.4 (a), (b) and 104.7(b), and Title II and its implementing regulation at 28 C.F.R. §§ 35.130(a), (b) and 35.107(b).

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 and Title II implementing regulation at 34 C.F.R. §§ 104.4(a) and (b) and 104.7(b), and Title II and its implementing regulation at 28 C.F.R. §§ 35.130(a), (b) and 35.107(b), which was 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 or Designee

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Date