

Resolution Agreement
Paulding County School District
OCR Complaint #04-13-1367

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Paulding County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) 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, 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 asked to resolve the issues of the investigation 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 the District are not subject to a hostile environment on the basis of disability, and 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 to resolve the issues of this investigation, the District voluntarily agrees to take the following actions:

Student Focused Remedies

1. By January 17, 2014, the District will conduct a reevaluation of the Student through a process that comports with the Section 504 regulation at 34 C.F.R. § 104.35. This evaluation will include consideration of a psychoeducational evaluation and other evaluation materials determined to be appropriate based upon a review of the Student's records (including academic, social and behavioral records); any relevant medical records; any parent, Student or staff observations; and, the Student's needs. The District will arrange and pay any related costs for the reevaluation of the Student.

Reporting Requirement. By January 31, 2014, the District will submit to OCR a copy of the Student's updated psychoeducational report and all other evaluation materials identified in Item #1 used to reevaluate the Student. The District also agrees to provide the reasons for selecting those specific materials.

2. By January 31, 2014, the Student's IEP team will convene and determine whether any compensatory educational services for the Student are necessary in light of the reevaluation conducted in accordance with Item #1 of this Agreement and if so, will amend the Student's IEP and provide any agreed upon compensatory services by May 30, 2014.

Reporting Requirement. By February 10, 2014, the District will submit to OCR the following:

- a) A copy of the Student's amended IEP from the IEP meeting as described in Item #2. If compensatory services are deemed necessary, the District will include documents showing the type of compensatory services provided, the number of hours, and the timetable for provision of the services. If compensatory services are not deemed necessary, the District will provide documents showing how that decision was made; and
 - b) All documentation showing that any agreed upon services were provided.
3. By January 4, 2014, the District will expunge from the Student's disciplinary record the Weapons charge, related sanctions, and all mention of the incident that occurred on May 2, 2013 on the Student's Behavior Detail report and any other documents reflecting the Student's disciplinary record.

Reporting Requirement. By January 17, 2014, the District will submit to OCR a copy of the Student's Behavior Detail Report and all other disciplinary records showing that the charge, sanctions, and other statements relating to the Weapons charge have been removed.

4. By January 31, 2014, the District will conduct an investigation to determine whether the Student was harassed on the basis of disability and/or whether the student who threatened him during the incident on May 2, 2012 created a hostile environment for the Student based on disability. The investigation will proceed in accordance with applicable Section 504 standards. The investigation will include interviews with the Complainant, the Student, witnesses, staff members, and current and former students. The District will prepare written findings and notify the Complainant regarding the outcome of the investigation by February 15, 2014. If the District determines that the Student was harassed on the basis of disability, or that a hostile environment existed, the District will offer counseling and academic or other support services to the Student to remedy the effects of the harassment and/or the environment. If the Complainant consents to such services, the District will immediately begin providing the services. In addition, if applicable, the District in consultation with the Complainant and the 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 anyone found to have created a hostile environment for the Student.

Reporting Requirement. By March 1, 2014, the District will submit to OCR the following: a) a summary of its investigative steps, including a list of all witnesses interviewed and a summary of their statements; a copy of its notice of the outcome to the Complainant; and if applicable, its written offer of counseling and educational services provided to the Complainant; b) copies of the Complainant's response, including documentation demonstrating the initiation of any agreed upon services; c) a report of the

meeting held with the Complainant and the Student assess the current environment, and a copy of any plan that was developed to protect the Student from further harassment; and d) if applicable, a summary of action(s) taken against the offending student, as well as other actions it has taken to remedy the effects of the harassment at the School in response to the findings.

Notice of Nondiscrimination

5. By March 1, 2014, the District will amend its Chart of Responsibilities for Responses to Civil Rights Concerns on the first paragraph of Page 10 of its Parent & Student Guide (Guide) and its website to include a reference after each of the federal statutes stating the subject matter of those statutes, e.g. ("Title IX of the Educational Amendments of 1972 (prohibiting discrimination on the basis of sex)).

Reporting Requirements. By March 14, 2014, the District will provide OCR with a copy of Page 10 of the revised Guide and a link to the website page containing the language described in Item #5.

Policies

6. By March 1, 2014, the District will amend its Student Discrimination policy on Page 28 of the Guide and its website to include a sentence inserted after the first paragraph stating: "All students who believe they were harassed on any of these bases may file a complaint that will also be processed in accordance with the following procedure."

Reporting Requirement. By March 14, 2014, the District will provide OCR with a copy of Page 28 of the revised Guide and a link to the website page containing the language described in Item #6.

7. By May 14, 2014, or within 60 days of OCR's approval of the policies developed in accordance with Items #5 and #6 of the Agreement, whichever is later, the District will adopt and implement the procedures and will publish the revised procedures in a written document and on its website.

Reporting Requirement: Within 30 days of completion of Item #7, the District will provide OCR with documentation that it has implemented Item #7 above.

Bullying and Harassment Policies/Grievance Procedures

8. By March 1, 2014, the District will revise and submit for OCR approval, its existing policies and procedures concerning bullying, harassment and grievances or other complaints regarding treatment of students as necessary to clarify that: a) the District's policies concerning bullying apply to bullying on the basis of disability; b) the District's grievance procedures apply to allegations of discrimination, including harassment, on the basis of disability by staff, students or third parties; c) the complainant and subject of the complaint shall be afforded the opportunity to present witnesses and other evidence; and

d) the District will take steps to prevent the recurrence of any discrimination and harassment and to correct any discriminatory effects on the complainant and others, if appropriate.

Reporting Requirement. By March 14, 2014, the District will submit its revised policies and procedures to OCR for its review and approval.

9. By May 14, 2014, or within 60 days of OCR's approval of the procedures developed in accordance with Item #8 of the Agreement, whichever is later, the District will adopt and implement the procedures and will publish the revised procedures in a written document and on its website.

Reporting Requirement. Within 30 days of the completion of Item #9, the District will provide OCR with documentation that it has implemented Item #9 above.

Training

10. By June 1, 2014, the District will provide training for all Principals and Assistant Principals on the prohibition of disability harassment under the Section 504 implementing regulation at 34 C.F.R. § 104.4 and on the revised policies and procedures developed in accordance with Item #9. The training should include examples of the types of conduct (e.g., one incident of a serious physical threat) which may create a hostile environment on the basis of disability and cover the District's obligation to investigate reports of disability harassment and eliminate a hostile environment of which it has notice. The District will also provide training for staff responsible for responding to complaints of harassment based on disability concerning the steps to take in investigating and addressing a complaint of disability-based harassment.

Reporting Requirement. By June 10, 2014, the District will provide OCR with a report confirming that this training has been completed, including (a) the date of the training; (b) the background and qualifications of the presenters/trainers; (c) a copy of the transcript(s)/materials used for the training; (d) a sign in log with name and title of all District employees who completed the training.

District Statement Regarding Harassment

11. By January 31, 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 Requirements. By February 15, 2014, the District will provide OCR with a copy of the statement referred to in Item #11 along with a description of where the statement was published.

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 Section 504 and Title II, and their implementing regulations.

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 Section 504, Title II, Title VI, Title IX, and their implementing regulations.

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.

Superintendent or Designee

Date