

302 RESOLUTION AGREEMENT
Birmingham City School District (Alabama)
Complaint #04-13-1368

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Birmingham City School District (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, 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. The Birmingham City School District (District) has voluntarily entered into this Resolution Agreement (Agreement).

Prior to the completion of OCR's investigation, the District asked to resolve the issues of this complaint pursuant to Section 302 of OCR's Case Processing Manual (CPM). Accordingly, to ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issues of this complaint, the District voluntarily agrees to take the following actions.

Student-Focused Remedies

- 1. By January 31, 2014**, the District will amend the educational records of the Student to reflect his reinstatement from the expulsion from Huffman High School (School) as of May 23, 2013.

REPORTING REQUIREMENT: By February 28, 2014, the District will provide OCR with a certified copy of the Student's revised educational records which reflect the revised date of reinstatement.

- 2. By January 31, 2014**, the District will replace failing grades issued on or after April 23, 2013, and replace said grades with grades received during summer school (2013), and recalculate his grade accordingly.

REPORTING REQUIREMENT: By February 28, 2014, the District will provide OCR with a certified copy of the Student's revised transcript showing that the Student's grades were changed and documentation demonstrating the applicable District and School policies and how the grades were recalculated.

- 3. By January 31, 2014**, the District will reimburse the Complainant for any fees she paid for lost books in June 2013.

REPORTING REQUIREMENT: By February 28, 2014, the District will provide OCR with a copy of a check or other documentation evidencing the reimbursement for books.

4. **By January 31, 2014**, a District level administrator will conduct an investigation to determine whether District personnel encouraged the parent of the student injured in the April 23, 2013 incident to seek criminal prosecution of the Student and if so, whether that action was taken in retaliation for the Complainant's protected activity. The District's determinations will be made in accordance with the Section 504 regulation at 34 C.F.R. Part 104.61 (which incorporates by reference the retaliation provision of the regulation implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sections 2000d *et seq.*, at 34 C.F.R. § 100.7(e). If the District determines that retaliation occurred, it will discipline personnel involved in the retaliatory act.

REPORTING REQUIREMENT: By February 28, 2014, the District will provide OCR with documentation of its investigation that will include a list of persons interviewed, copies of all interview notes, investigative reports; and the findings of the investigation, including the reasons for any conclusions reached by the administrator conducting the interview. Additionally, the District will provide OCR documentation of any discipline of staff and any policy changes resulting from its investigation.

Training Provisions

5. **By February 28, 2014**, and annually thereafter, the District will provide in-service training for administrators, faculty and staff at Huffman High School on the Section 504 prohibitions against retaliation. The training will include examples of adverse actions that relate to the discipline process but do not allude to the Student or the April 23, 2013 incident for which the Student was disciplined.

REPORTING REQUIREMENT: By March 31, 2014, or within 30 days of the training being conducted, whichever comes first, the District will provide OCR with a report confirming the completion of the training required by this Item; the documentation shall include: (1) the date of the training session; (2) a list of the attendees, (3) the identity and qualifications of the trainer; and (4) a copy of the agenda and training materials disseminated.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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. § 104.61 which incorporates by reference, the retaliation prohibition of Title VI at 34 C.F.R. § 100.7(e); and Title II at 28 C.F.R. § 35.130 and 35.134, which were at issue in this investigation.

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. § 104.61, which

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incorporates by reference, the retaliation prohibition of Title VI at 34 C.F.R. § 100.7(e); and Title II at 28 C.F.R. § 35.130, which were at issue in this investigation.

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.

/s/

December 20, 2013

Superintendent or designee

Date