

Resolution Agreement
OCR Docket No. 05-15-1181
Community Consolidated School District 15

This Resolution Agreement is entered into by Community Consolidated School District 15 (District) with the U.S. Department of Education, Office for Civil Rights (OCR) to resolve Allegation #1 of the above-referenced complaint filed with OCR against the District alleging noncompliance with 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, specifically 34 C.F.R. § 104.33, which were at issue in this case, in addition to the general non-discrimination provisions of Title II of the Americans With Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, found at Title II's implementing regulation at 28 C.F.R. § 35.130.

The District is voluntarily entering into this Agreement to resolve the allegation that from January 2015¹ to present, the District has discriminated against Student A, a student at [X-school name redacted], based on disability [X-disability information redacted] in that, the District denied Student A a free appropriate public education (FAPE) by failing to implement his Individualized Education Program [X-disability information redacted], and to ensure the District's compliance, as to the issues raised in that allegation, with the regulation implementing Section 504 at 34 C.F.R. § 104.33, which was, in relevant part, at issue in this case. This Agreement is not to be construed as an admission of liability or wrongdoing by or on behalf of the District, or any other party identified in interest with the District.

ACTION ITEMS

1. No later than September 15, 2015, the District shall properly notice and convene, in accordance with the Section 504 procedural safeguards set forth at 34 C.F.R. § 104.34-104.36, an IEP meeting with Student A's IEP team, including the Complainants and the staff at the new school.
2. At that meeting, the Team will, in relevant part, examine the current IEP [X-disability-related information redacted] and discuss how it was being implemented during the 2014-15 school year. Specifically, the Team will discuss:
 - a. the provisions related to the issuance, documenting , and reporting to School administration and the Complainants of [X-disability-related information redacted].
 - b. the daily progress report (DPR) form and the data entry method);
 - c. the [X-disability related information redacted] for Student A.
3. Based upon all available information available to the IEP Team, the Team will discuss what, if any, changes should be made so that the plan can be better implemented during the 2015-16 school year and will consider how the failures to implement Student A's IEP [X-disability-related information redacted] during the 2014-15 school year impacted

¹ OCR's investigation revealed that the Complainants did not provide consent for the District to implement the IEP [X-disability-related information redacted] at issue in this case until February 23, 2015. Therefore, the provisions in this resolution agreement are to reflect that date as the starting point for the action items reflected herein.

Student A's educational progress and determine whether Student A requires compensatory educational services for the time period he did not receive services.

REPORTING REQUIREMENT

By September 22, 2015, the District will provide documentation to OCR that it has complied with the items listed above. Such documentation shall include notes, minutes, memoranda, recordings, and any other documentation of the IEP meeting(s) required by this agreement.

The District's documentation will include the District's determination as to whether the failure to implement [X-disability-related information redacted] during the 2014-15 school year adversely impacted Student A's education, and the compensatory educational services needed to restore Student A to the point in his educational progress that he would have otherwise been.

Additionally, the documentation will include an explanation for decisions made, and a description of and schedule for providing any compensatory and/or remedial services to the Student. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

By October 22, 2015, the District will provide documentation to OCR of the dates, times, and locations that any compensatory and/or remedial services were provided, and the name(s) of the service provider(s).

By signing this Agreement, the District agrees to provide the referenced data and other information in a timely manner. During the monitoring of this Agreement, OCR may, at mutually agreed times, interview staff and students.

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. § 104.33, which was, in relevant part, at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce this Agreement in accordance with all applicable laws and regulations. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10, incorporated by reference at 34 C.F.R. § 104.61) or judicial proceedings to enforce this Agreement, OCR must give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement constitutes the complete agreement between the District and OCR. The parties to this Agreement have not relied on any promise, representation, statement, or inducement that is not expressly stated in this Agreement. No changes or additions to this Agreement are valid unless they are in writing and signed by both parties. A copy of this document will have the same legal effect as the original.

For the District

Date