

Resolution Agreement

Jefferson County Public Schools Case Number 08-14-1031

In order to resolve the allegations in Case Number 08-14-1031, filed against Jefferson County Public Schools (the District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement the following Resolution Agreement. The complaint was opened for investigation pursuant to allegations of the District's noncompliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12131-65, and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by public entities.

During the course of OCR's investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such. By entering into this Agreement, the District does not admit any of the allegations made in the Complaint, nor does it admit that it has violated Section 504 or Title II of the ADA in any way. The District is committed to complying fully with Section 504 and Title II of the ADA, and, accordingly, it has voluntarily agreed to take the steps outlined in this Agreement.

RESOLUTION ACTION

1. Within 30 days¹ from the date this Agreement is signed by the District, the District shall notify all administrators, counselors, and instructional staff members at XXX that the District's Section 504 and Title II policies and procedures apply in full to all District schools, including option schools.

REPORTING REQUIREMENT: By April 15, 2014, the District will provide OCR with a copy of the notice provided to all appropriate administrators and staff.

2. The District will develop training materials for all appropriate administrators and staff members, including all administrators and instructional staff members at XXX, regarding the District's legal obligations under Section 504 and Title II. The training will include a segment addressing the District's obligation to provide a free appropriate public education to every student with a disability regardless of the nature or severity of the student's disability, including evaluation, placement, appropriate education, and procedural safeguards. 34 C.F.R. §§ 104.33-36. The training shall make clear that parents and guardians must be given

¹ All timeframes are expressed as calendar days.

the opportunity to provide input, that the individual needs of the student must be taken into account, and that all regular or special education and related aids and services set forth in Section 504 Plans and Individualized Education Programs (IEPs) must be provided.

REPORTING REQUIREMENT: Within 60 days from the date of this Agreement, the District will submit to OCR for review and approval: (1) the qualifications of the individual who will provide the training; and (2) the proposed training agenda and training materials.

3. The District will consider and respond to any feedback from OCR with respect to the qualifications of the individual who will provide the training and the proposed training agenda and training materials. After obtaining OCR's approval of the trainer and training materials, the District will provide training using the materials developed pursuant to Paragraph 2 of this Agreement to all administrators, counselors, and instructional staff members at XXX. Prior to the start of subsequent school years, the District will ensure that all administrators, counselors, and instructional staff members at XXX are reminded of the District's legal obligations under Section 504 and Title II, including the obligation to ensure that parents and guardians are given the opportunity to provide input, that the individual needs of the student must be taken into account, and that all regular or special education and related aids and services set forth in Section 504 Plans and Individualized Education Programs (IEPs) must be provided.

REPORTING REQUIREMENT: Within 60 days from the date of OCR's approval of the trainer and training materials or within 60 days of the next available in-service day at XXX, whichever occurs later, the District will provide documentation that it has provided the training referenced in Paragraph 3 of this Agreement. The documentation will include sign-in sheets documenting that the requisite training was provided to XXX administrators, counselors, and instructional staff members attended the training.

4. Within 30 days from the date of this Agreement, regardless of where the Student is enrolled in the District, the District will convene a Section 504 Team meeting to discuss whether and to what extent compensatory educational services or other remedial measures, if any, are necessary. If compensatory education and/or other remedial measures are deemed necessary, the Team will draft an action plan regarding the compensatory educational services or other remedial measures that will be offered or taken, the specific timelines for implementation, and the person(s) responsible for overseeing full and timely implementation. The District shall not be obligated to provide the compensatory education or other remedial measures offered if the parents or the Student decline them. Likewise, the District shall be obligated to provide compensatory education to the Student only so long as the Student remains a resident of the District.

The District will ensure that any decisions regarding compensatory services or other remedial measures reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to attend the meeting and to provide input, and it will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The Team will consider all information provided by the Student's parents and their invitees. The Team will include District employees who have knowledge of

the matters being considered by the Team. Should the District determine that no compensatory educational services or other remedial measures are necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation, for OCR's review.

REPORTING REQUIREMENT ONE: Within 21 days from the date of the Section 504 Team meeting, the District will submit documentation to OCR that includes the following:

- a. A list of the individuals who attended the meeting (by name, title, and role in the meeting).
- b. Documentation of the District's invitation to the parents to attend the meeting and to obtain their input.
- c. A copy or summary of the information that the Section 504 Team considered in reaching its determination regarding whether and, if so, what compensatory educational services or other remedial measures are necessary for the Student.
- d. Notes from the meeting documenting that the Section 504 Team considered input from parents and other persons knowledgeable about the Student.
- e. Documentation of the Section 504 Team's decision regarding whether, and, if so, what compensatory educational services or other remedial measures are necessary for the Student and the basis for its decision.
- f. If applicable, a copy of the plan for provision of compensatory educational services or other remedial measures to be offered or taken by the District at no cost to the parents.
- g. If applicable, documentation that the Complainant was notified in writing of the compensatory educational services or other remedial measures offered by the District.
- h. Documentation that the District provided the Complainant with notice of the Student's rights, her rights, and the applicable procedural safeguards under Section 504 and Title II.

REPORTING REQUIREMENT TWO: If compensatory educational services or other remedial measure are offered or taken, the District will submit documentation to OCR within six months from the date of the Section 504 Team meeting demonstrating that all of the compensatory educational services or other remedial measures determined necessary by the Team have been provided to or taken for the Student.

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 regulations implementing Section 504 and Title II, which were at issue in this case.

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 the Agreement, if necessary, OCR may visit the District, interview District employees, 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 and Title II, which were at issue in this case.

