

Resolution Agreement
Summerville Union High School District
U.S. Department of Education, Office for Civil Rights
Docket Number 09-15-1155

To resolve the above-referenced complaint with the U.S. Department of Education, Office for Civil Rights (OCR), filed pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) and their implementing regulations, the Summerville Union High School District (District), without admitting to any violation of the law, agrees to take the following actions:

I. Free, Appropriate, Public Education – Evaluation & Placement

A. Policies and Procedures:

- i. By October 1, 2015, the District will review Administrative Regulation 6164.6, “Identification and Evaluation under Section 504”, Administrative Regulation 6164.4, “Identification and Evaluation of Individuals for Special Education”, and Administrative Regulation 5144.2 “Suspension and Expulsion Process” to ensure that the regulations comply with the legal standards under 34 C.F.R. §§ 104.33-104.36; the ADA Amendments Act of 2008; and the guidance set forth in the January 19, 2012 Dear Colleague Letter from the U.S. Department of Education Assistant Secretary for Civil Rights¹ and its attached FAQs.²

By October 1, 2015, the District will provide OCR with a draft of proposed revisions to AR 6164.6, AR 6164.4, and AR 5144.2 or, if no revisions are necessary, a detailed summary explaining how these administrative regulations meet the above legal standards as drafted. Within 60 days of approval from OCR, the District will provide OCR with documentation that it has adopted the revised policies.

- ii. Following OCR’s review and approval of the District’s revisions to the above-mentioned policies, the District will update its Section 504 Handbook and Forms to ensure that these materials are consistent with any revisions made under I(A)(i) and I(A)(ii) of this agreement.

By November 1, 2015, the District will provide OCR with a draft of proposed revisions to the 504 Handbook and Forms. Within 30 days of approval from OCR, the District will distribute the revised Section 504 Handbook and Forms to each school site with instructions to cease using prior versions. Within one

¹ Found at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.pdf>

² Found at <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.pdf>

week of the District's distribution of the Section 504 Handbook and Forms, the District will provide OCR with evidence sufficient to demonstrate that they have been distributed in accordance with this agreement.

B. Written Memorandum:

- i. Per revisions to Board Policies, Administrative Regulations, and 504 Handbooks and Forms in Section I(A) of this agreement, the District will issue a written memorandum to all appropriate District and site staff explaining the District's responsibilities to conduct assessments of students suspected of a disability, including that:
 - a. all students suspected of having a disability will be assessed;
 - b. whether to assess a student will be based on the individual student and only factors related to that individual student when considering whether there is a reason to suspect that the student has a disability;
 - c. any practices that delay the evaluation of a student suspected of a disability will be eliminated;
 - d. if there is reason to suspect a student has a disability, assessments may not be delayed while other interventions are attempted (e.g. Student Study Team interventions or Response to Intervention), although such interventions may be attempted concurrent with an assessment;
 - e. any time a parent/guardian requests a special education assessment and the District determines an assessment is not appropriate, the District will provide appropriate procedural safeguards to the parent/guardian, including the basis for the denial and information on the parent/guardian's right to appeal .
- ii. Within 30 days of OCR's approval of Section A(i)(ii), the District will provide OCR with a draft of this written memorandum. Upon approval from OCR, the District will distribute the memorandum within 30 days and provide OCR with evidence of the distribution of the memorandum.

II. Student compensation

- a. According to the District's offer, the District will provide reimbursement to the Complainants for the cost of one visit to the Student in his placement during the 2014-2015 school year. Parents will provide the District with a copy of the receipts for motel stays within 30 days of the date of closure of

this complaint. This resolves all future monetary claims regarding the Student's placement and services.

- b. Mileage will be provided for 883 miles each way and up to \$140 per night for 4 nights in a motel.

III. Training

A. FAPE under Section 504:

- i. By January 1, 2016, the District will train District staff, including site administrators, special education teachers, school psychologists, counselors and any other staff members who work with students with special needs, on the revised requirements for identification and evaluation of individuals for special education and the District's Section 504 policies and procedures. At the District's request, OCR may provide training at no cost to the District. The training will cover an explanation of the following:
 - a. The District and School's responsibilities for providing a free appropriate public education (FAPE) to students with disabilities under IDEA and Section 504;
 - b. The District's Section 504 policies and procedures (AR 6164.6), for the identification, evaluation and placement process, and procedural safeguards for parents;
 - c. The definition of an individual with a disability and the definition of major life activities consistent with Section 504 and Americans with Disabilities Amendments Act of 2008 (Amendments Act).
 - d. The District's specific responsibility for conducting an evaluation of a student under Section 504 if it believes or has reason to believe that the student needs or may need special education or related services due to a disability; the academic and behavioral indicators for determining when such an evaluation is needed, and examples, pertaining to both physical and emotional/psychological disabilities, of circumstances where evaluation may be needed;
 - e. The District's responsibility to conduct manifestation determinations when students with disabilities have been suspended from school for ten or more days in a school year;
 - f. The District's responsibility to learn whether incoming students have Section 504 plans and to implement those plans unless a new plan is developed; and

- g. The full range of services that can be provided under Section 504 including special education and related aids and services.
- ii. By January 15, 2016, the District will provide OCR with documentation of the training described above, including an agenda, all handouts, and sign-in sheets.

IV. Monitoring

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 and Title II at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, 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 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 regulation implementing Section 504 and Title II at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which were 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 sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Superintendent
Summerville Union High School District

_____08/18/2015_____
Date