

**Resolution Agreement
Clark County School District
OCR Complaint No. 10141360**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against the Clark County 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 at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in any educational program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the district is subject to the provisions of Title IX. Accordingly, to ensure compliance with the above-referenced statutes and to resolve this complaint, the District voluntarily agrees to take the following actions:

I. Notice

Within **30 days of OCR's approval**, under I.1, below, the district agrees to provide written notice, including examples of situations for which the notice may apply, to all instructional and administrative staff at all district schools which informs staff of the following:

- A. that the district is committed to complying with Section 504 and Title II, including the obligation to consistently provide all services listed in Section 504 plans and/or Individual Education Plans (IEP);
- B. that significant changes to a disabled student's educational program and placement cannot be made without complying with Section 504;
- C. that staff should promptly report to school and district administrators any concerns regarding the implementation of a student's education program and placement;
- D. that school or district administrators will take responsive action to ensure that issues regarding implementation or notification are resolved as promptly as possible, which may include convening a multidisciplinary team; and

The written notice will include the requirements of Section 504 relating to IEP/ Section 504 plan implementation.

Reporting Requirement I. 1:

By **March 31, 2017**, the district will provide OCR with a copy of the district's draft notice.

Within **30 days** of receiving the district's proposed draft notice described above, OCR will review the materials submitted and provide feedback regarding necessary changes or approve the policies as written.

Reporting Requirement I.2:

Within **60 days** of dissemination of the written notice required in section I, above, the district will provide OCR a copy of the written notice and information about the method and date of distribution.

II. Student-Specific Actions for Education Program

If the student is enrolled in the district by August 25, 2017, within **60 days** of the enrollment in a district program and the parents' provision of consent for evaluation, the district will (a) complete a comprehensive evaluation of the student who was the subject of the referenced complaint consistent with the requirements of 34 CFR 104.35 and (b) develop a new individualized education program consistent with the requirements of 34 CFR 104.33 and 104.34, if necessary. The district will provide the student's parents notice of the procedural safeguards consistent with 34 CFR 104.36, including the right to request an impartial due process hearing.

Reporting Requirement II.1:

By **September 30, 2017**, if the student has not enrolled in the district by August 25, 2017, the district will provide OCR with a report notifying OCR of the student's status.

Reporting Requirement II.2:

By **September 30, 2017**, if the student has enrolled by August 25, 2017, but the parent did not provide consent for evaluation, the district will provide OCR with a report indicating when consent was requested and any relevant information about the student's current program.

Reporting Requirement II.3:

If the student has enrolled by August 25, 2017, and the parent has provided consent for evaluation, within **60 days** of the establishment of a new IEP under section II of the agreement, the district will provide OCR a report to include:

- A. A copy of the student's evaluation;
- B. the name and job title of the individuals who participated in the Section 504/IEP team meeting; and
- C. A copy of any new individualized education program developed as a result of the meeting held pursuant to section II.

OCR will review the actions taken by the district pursuant to section II to ensure that the district followed the procedural requirements of the regulation implementing Section 504 at 34 CCR 104.34, 104.35 and 104.36, in making these determinations.

III. Compensatory Education or other Remedial Action for the Student

If the student does not enroll in the district by August 25, 2017, the district will not be obligated to implement or comply with any of the provisions set forth in this section of this agreement.

If the student is enrolled in a district program by August 25, 2017, within **60 days**, the district will convene a group of persons knowledgeable about the student (including her parent/guardian), her evaluation information, and placement options, to determine whether the student needs compensatory education services and/or other remedial services are needed as a result of the student not receiving appropriate regular and/or special education or related services from December 1, 2013, through the end of the 2013-2014 school year.

- If the group determines that compensatory education services or other remedial services are needed as a result of the district's failure to provide the student with appropriate regular and/or special education or related services, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **March 30, 2018**.

The district will provide the student's parent/guardian with notice of the plan and procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing. The notice may inform the parent that they must reply within two weeks or 14 calendar days, and inform the district as to whether the parent/guardian: (a) accept or reject the offer of compensatory education or remedial actions or (b) wish to challenge the group's determination through a due process hearing. The notice may also indicate that, if the district does not receive a written response from the parent by the 14th calendar day after the day on which the written notice was issued, the parent/guardian will be deemed to have rejected the district's offer of compensatory education or remedial action.

The district will begin implementing the plan not later than 10 days following the district's receipt of OCR's approval under reporting requirement III.2, below.

Reporting Requirement III.1:

By **September 30, 2017**, if the student has not been enrolled in the district by August 25, 2017, the district will submit a written report to OCR reflecting that fact and will not be obligated to implement or comply with any of the provisions set forth in this section of this agreement.

Reporting Requirement III. 2:

If the student is enrolled in the district by August 25, 2017, within **90 days**, the district will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and proposed schedule for providing any compensatory education or remedial action (if any) to the student.

Within **30 days** of receipt and prior to approving the district's decision and plan for providing the proposed services, OCR will review the documentation 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. If OCR has questions regarding whether the group's decision provides adequate compensatory education or remedial action, OCR may raise concerns with the district and request additional information before approving the group's decision.

Reporting Requirement III.3: Within **90 days** of implementation of compensatory services to the student, the district will provide OCR with a report on the compensatory services that includes a description of the services to be provided; the dates, times and locations that compensatory and/or remedial services were provided; and the name(s) of the service provider(s).

Reporting Requirement III.4: Within **30 days** of the completion of the provision of compensatory education services, the district will provide OCR with notice that compensatory education services have been completed.

Reporting Requirement III.5: If the student's parent/guardian (a) rejects the district's offer of compensatory education or remedial action, or (b) requests a due process hearing, the district shall provide notice to OCR within **5 days** of the rejection or request,

Specifically, if the parent/guardian has rejected the district's offer or has otherwise failed to respond to the district's offer or has requested a due process hearing, the district shall provide documentation to OCR to demonstrate the parents' rejection, failure to respond or request for a due process hearing, e.g., a copy of the written response received by the parent/guardian or copies of certified mail demonstrating that the district provided notice to the parent/guardian, but she did not respond. If OCR approves the documentation, no further action will be needed and the district will not be required to meet reporting requirements III. 4 and 5, below.

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, 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 and their implementing regulation at 34 C.F.R. Part 104, (Title II) and 28 C.F.R. Part 35 that were at issue in this case.

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 Section 504 and Title II implementing regulations at 34 C.F.R. Part 104, and 28 C.F.R. Part 35 that 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, including to enforce this Agreement, OCR shall give the district written notice of the alleged breach and 60 calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the Superintendent or his designee below.

Signed:

_____/s/_____
Pat Skorkowsky
Superintendent
Clark County School District

March 10, 2017
Date