

Resolution Agreement
School District of Newberry County
OCR Case No. 11-13-1156

To resolve the above-referenced complaint filed with the U.S Department of Education, Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (the ADA) and their implementing regulations, the School District of Newberry County (the District) voluntarily enters into this resolution agreement and commits to implement the provisions set forth in this agreement in order to resolve the allegation in this complaint.

District's Special Education Evaluation Procedures

The District will review and, where necessary, revise its policies related to the evaluation of students suspected of having a disability. The revised policies and practices will affirm the District's obligation to conduct an evaluation of any student who the District suspects has a disability and is in need of special education or related aids and services. Specifically with regard to the receipt of parental requests for evaluation or the submission of medical information to the District by parent, the revised policies and practices will emphasize that:

- a. Parental submission of written medical information from a licensed health practitioner including independent evaluations may be sufficient to trigger the District's responsibility to evaluate a child for eligibility for special education or related aids and services.
- b. Parental requests for evaluation of students currently receiving interventions may be sufficient to trigger the District's responsibility to evaluate of a child for eligibility for special education or related aides and services.
- c. Repeated implementation or prolonged periods of interventions are not a substitute for the appropriate special education evaluation and placement of students with disabilities, whether under Section 504 or the Individuals with Disabilities Education Act; and
- d. After receiving a parental request, should the District decline to evaluate the student (including instances where the District chooses to initiate short term, research-based interventions), the District is required to notify parents of the denial and provide the parents procedural safeguard information for which the District is to maintain documentation.

Reporting Requirement: By **January 31, 2014**, the District will submit the revised procedures to OCR for review and comment. Within 30 days of OCR's notice of approval of the revised procedures, the District will provide OCR with copies of all of the publications and links to websites where the revised procedures appear.

Training on the District's Special Education Evaluation Procedures

By **March 14, 2014**, the District will provide training on the revised evaluation procedures to staff involved in determining whether to evaluate students, including, but not limited to, designated school administrators, special education evaluators (such as school psychologists), and other staff whose job duties specifically include facilitating the process regarding special education or disability-based referrals or evaluations (such as the chair of student intervention teams). The training will emphasize the District's obligations to consider to evaluate students with disabilities, specifically following parent's request for evaluation or submission of medical information. In addition, the District will provide notice of the revised evaluation procedures to any other staff who is involved in determining whether to evaluate students or who may otherwise receive an evaluation request from a parent.

Reporting Requirements: By **March 28, 2014**, the District will provide OCR with a report confirming completion of the required training, including: (i) the date of each training session(s); (ii) a list of names and titles of the District and/or School personnel who participated in each training session; (iii) the title and qualifications of the trainer; and (iv) copies of the agenda and training materials disseminated at the training session.

Individualized Student Review

By **February 14, 2014**, the District will convene a team of knowledgeable persons to review the files of all students whose parents requested a special education evaluation or whose parents submitted independent special education evaluations during the 2012-2013 school year and any requests made in the 2013-2014 school year up to the date this agreement is signed to determine whether the District delayed the evaluation of those students. For each student who the school-based team determines was not timely evaluated following a request, the District will then convene an appropriate team of knowledgeable persons to determine if any eligible students with disabilities were denied a free appropriate public education as the result of any delay in conducting an evaluation and whether the provision of compensatory educational services or other appropriate relief is warranted. The District will offer and provide compensatory educational services to adversely affected students, as appropriate. The team will decide the type and amount of services to provide, along with a timetable for delivery of those services.

Reporting Requirements: By **February 28, 2014**, the District will provide OCR with a report confirming the completion of the required review. In the report, the District will provide: the name of each student; the nature of the student's disability (if applicable); a determination as to whether the evaluation process was delayed; documentation supporting the decision as to how many hours of compensatory educational services or other appropriate relief should be offered to the student (if applicable); verification of the total number of hours of compensatory educational services or other appropriate relief offered to the student; documentation of the acceptance or rejection of the offer by the student's parent/guardian; and, where appropriate, documentation of the services that were in fact provided. The District will provide any additional documentation regarding completion of these services to OCR within a reasonable period of time of completion.

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 the provisions of Section 504, at 34 C.F.R. Part 104 and Title II, at 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 the provisions of Section 504, at 34 C.F.R. Part 104 and Title II, at 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 a minimum of sixty (60) calendar days to cure the alleged breach.

//s//
Superintendent or Designee

1/10/2014
Date