

Proposed Resolution Agreement  
Virginia Beach City Public Schools  
OCR Case No. 11-13-1249  
May 23, 2014

To resolve the above-referenced complaint filed with the United States 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 Virginia Beach City Public Schools (the Division) voluntarily enters into this resolution agreement (the Agreement) and commits to implement the provisions set forth in this Agreement in order to resolve the allegations in this complaint. This Agreement does not constitute an admission by the Division of any violation of Section 504, Title II or any other law enforced by OCR. Further, OCR has made no determination that the Division has violated Section 504 Title II, or any other law enforced by OCR.

1. By August 1, 2014, the Division will review and, as necessary, revise its policies and/or regulations regarding the employment rights of individuals with disabilities. The Division will ensure that its policies and/or regulations contain procedures for determining whether an employee is a qualified individual with a disability, including the process for employees to request and the Division to consider requests for reasonable accommodations. Furthermore, if not already a component, these policies and/or regulations will:

- include a statement that no qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment;
- ensure that the process for considering requests for reasonable accommodations is conducted in an interactive manner and based on appropriate legal standards;
- address the type of documentation, including current medical documentation, and other information necessary for the Division to make such determinations; and
- reference the grievance procedure developed pursuant to Provision 3 of this Agreement.

These policies and/or regulations will include a procedure for resolving disputes related to any request for disability-related reasonable accommodations or any restriction or condition placed on an employee's terms of employment.<sup>1</sup>

OCR acknowledges that no policy or regulation becomes official for the Division until and unless it is approved by the appropriate Division authority.

**Reporting Requirement:** By August 1, 2014, the Division will provide OCR with a copy of its draft policies and/or regulations, as described above, for OCR's review and approval. Within 15 days of OCR's approval, the Division will provide OCR with documentation that it published the approved procedure in an easily accessible location on its website. Within 15 days of the next scheduled re-publication of the Division's employee handbook or equivalent publication, the Division will provide OCR with a copy of the handbook that includes the approved procedure.

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<sup>1</sup> The grievance procedure developed pursuant to Provision 3 of this Agreement may be used for this purpose.

2. Within 30 days of OCR's approval of the policies and/or regulations described in Provision 1, the Division will disseminate the policies and/or regulations to all Division employees and schedule training to occur no later than November 30, 2014, on the policies and/or regulations for relevant Division and School personnel, including the Section 504 coordinator; Human Resources personnel; school administrators; and any other Division personnel involved in considering requests for reasonable accommodations.

Reporting Requirement: By October 1, 2014, the Division will provide OCR with documentation that the policies and/or regulations were disseminated to relevant Division and School personnel, as defined in Provision 2. The Division will also provide OCR with advance copies of all material, including hand-outs, and PowerPoint presentations, developed for the training, and the name, title, and qualifications of the individual(s) conducting the training, for OCR's review and approval. After OCR's approval, the Division will provide OCR with documentation that it conducted the training, including copies of all materials distributed at the training, and an explanation of how it verified participation of required employees. At OCR's request, the Division will provide supporting documentation to confirm the attendance of required employees at particular schools or in particular categories.

3. By August 1, 2014, the Division will review and, as necessary, revise its employee grievance procedures to ensure that they incorporate appropriate due process standards and provide for the prompt and equitable resolution of any complaint of discrimination on the basis of disability under Section 504 and/or Title II.<sup>2</sup> In a manner consistent with Virginia law and regulation to which the Division is subject, the Division will ensure that these procedures include the following:

- notice to employees of the procedure, including where complaints may be filed, that is easily understood, easily located, and widely distributed;
- the name and contact information of the Division's Section 504 Coordinator;
- application of the procedure to complaints alleging discrimination or harassment carried out by employees, students, or third parties;
- adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- designated and reasonably prompt timeframes for the major stages of the grievance process, as well as the process for extending timelines;
- written notice to the parties of the outcome of the complaint;
- reference to the policy and procedure developed pursuant to Provision 1 of this Agreement;
- assurance that the school will take steps to prevent recurrence of any discrimination and to correct discriminatory effects on the complainant and others, if appropriate; and
- a prohibition on retaliation against an individual who participates in the grievance process, either by filing a complaint or serving as a witness.

Reporting requirement: By August 1, 2014, the Division will provide OCR with a copy of its draft grievance procedures, as described in Provision 3, for OCR's approval. Within 30 days of

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<sup>2</sup> The grievance procedures may be included as part of the same policy and/or regulation referenced in Provision 1 of this Agreement.

OCR's review and feedback, the Division will provide OCR with documentation that it published the approved grievance procedure in an easily accessible location on its website. Within 15 days after the next scheduled re-publication of the Division's employee handbook or equivalent publication, the Division will provide OCR with a copy of the handbook that includes the approved grievance procedure.

4. No later than October 1, 2014, the Division will disseminate the grievance procedure to all Division employees and schedule training to occur no later than November 30, 2014 on the grievance procedure for relevant Division and School personnel, including the Section 504 coordinator; Human Resources personnel; school administrators; and any other Division personnel involved in grievances.

Reporting Requirement: No later than October 1, 2014, the Division will provide OCR with documentation that the procedure was disseminated to Division and School personnel, as defined in Provision 4. The Division will provide OCR with advance copies of all materials, including hand-outs and PowerPoint presentations, developed for the training and the name, title, and qualifications of the individual(s) conducting the training, for OCR's review and approval. After OCR's approval, the Division will provide OCR with documentation that it conducted the training, including copies of all materials used at the training and an explanation of how it verified participation of required employees. At OCR's request, the Division will provide supporting documentation to confirm the attendance of required employees at particular schools or in particular categories.

5. The Division will include employee training on the Section 504/Title II grievance procedures as part of its employee back-to-school trainings, new employee trainings, and all other training on employee grievance procedures.

Reporting requirement: On September 30, 2014 and September 30, 2015, the Division will provide OCR with documentation that it included information on the Section 504 grievance procedures as part of all employee back-to-school trainings, new employee trainings (as they occur throughout the year), and all other training on employee grievance procedures and an explanation of how it verified participation of required employees. At OCR's request, the Division will provide supporting documentation to confirm the attendance of required employees at particular schools or in particular categories.

The Division understands that OCR will not close the monitoring of this Agreement until OCR determines that the Division has fulfilled its terms and is in compliance with the regulations implementing Section 504, at 34 C.F.R. Part 104; Title II, at 28 C.F.R. Part 35; and Title I, at 29 C.F.R. Part 1630. The Division also 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 Division understands that during the monitoring of this agreement, if necessary, OCR may visit the Division, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Division has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. Part 104; Title II, at 28 C.F.R. Part 35; and Title I, at 29 C.F.R. Part 1630.

The Division 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 Division written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

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Sheila S. Magula, Ed.D, Superintendent  
Virginia Beach City Public Schools

\_\_\_\_5/23/2014\_\_\_\_\_  
Date

APPROVED FOR LEGAL SUFFICIENCY

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Kamala H. Lannetti, Deputy City Attorney

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Date