

RESOLUTION AGREEMENT
Alabama Department of Education
OCR Docket #04-10-5001

In order to resolve the issue in Compliance review #04-10-5001 in accordance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 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. Sections 12131 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, the Alabama Department of Education (ALDOE) voluntarily enters into this agreement with the U.S. Department of Education (Department), Office for Civil Rights (OCR).

Effective as soon as practicable, ALDOE agrees to take all steps reasonably designed to ensure that students who are transported on special education routes are no longer receiving a shortened school day (unless otherwise mandated in students' 504 plans or IEPs).

Action Plan

State-wide Transportation Standards

1. ALDOE will develop State-wide standards for ensuring that students who are transported on special education routes are not receiving a shortened school day because of a district's transportation schedule. Transportation standards will include:
 - a. Clear definitions of what a "shortened school day" is and length of instructional time at each District throughout the State;
 - b. A directive requiring that students transported on special education routes be provided with a full instructional day, depending on the school's instructional time;
 - c. Clear transportation procedures, as outlined in this Action Plan, for State and District staff to follow to ensure that standards are being met; and
 - d. Review of the State-wide training materials and reporting requirements (i.e. ALDOE (SDE) Pupil Transportation Annual Comprehensive Required Plan for Transportation and the LEA System Profile Information Checklist) for other possible revisions which would assist in ensuring that students who are transported on special education routes are not receiving a shortened school day.

REPORTING REQUIREMENT: By May 31, 2012, ALDOE will send

documentation to OCR showing implementation of paragraph #1 of the Action Plan.

2. ALDOE will send to OCR a copy of its revised transportation policies and procedures for review and approval.

REPORTING REQUIREMENT: By May 31, 2012, ALDOE will send documentation to the OCR showing implementation of paragraph #2 of the Action Plan.

3. ALDOE will disseminate the revised transportation policies and procedures to all District administrators, transportation staff, and special education staff at all schools within each individual district within the State, after review and approval from OCR.

REPORTING REQUIREMENT: By May 31 2012, or within 30 days of OCR notifying ALDOE of approval of the policies and procedures, whichever date is later; ALDOE will send documentation to OCR showing implementation of paragraph #3 of the Action Plan.

4.
 - a. ALDOE will conduct an audit of the transportation schedules of all un-reviewed districts in the state, and require immediate corrective action on the part of those found to be in violation. ALDOE will conduct an audit of the transportation schedules of at least 16 un-reviewed districts per year to ensure that all systems within the state are audited within three years from the date of this Agreement. OCR will provide a list of the un-reviewed districts at Appendix A to this Agreement. This audit will include:
 - i. Collection of the transportation schedules for all special education buses in un-reviewed districts;
 - ii. Review of arrival and departure times for all special education buses in each selected district; and,
 - iii. If shortened school days are identified, determine from a review of the 504 plans or IEPs of all students who ride on a bus that arrives after, or leaves before the end of, the instructional day, to determine if their plans provide for a shortened day;

REPORTING REQUIREMENT: Beginning in 2012, within 60 days of the end of the calendar year, ALDOE shall provide OCR with a list of districts that were audited, a report of audit results, demonstration of corrective steps, etc., showing the implementation of paragraph #4a of the Action Plan.

- b. ALDOE will appoint a Comprehensive Review Coordinator who shall be responsible for ensuring that the district take corrective steps, including determinations regarding the provision of compensatory services for all students with disabilities who had a shortened school day in the absence of that requirement in their IEPs or 504 plans.

REPORTING REQUIREMENT: By May 31, 2012, ALDOE will send documentation to the OCR showing implementation of paragraph #4b of the Action Plan.

Recordkeeping Procedures

5. ALDOE will require each District within the State to develop a system to track special education bus routes for each elementary, middle school, and high school (Tracking System) to ensure that students who are transported on special education routes are provided a FAPE and are not subjected to a shortened school day based upon districts' transportation schedules. The Tracking System must include, at a minimum:
 - a. Daily logs of special education routes showing the actual drop-off time and pick-up time from the individual school within the Districts;
 - b. The students who have a shortened school day due to their IEP or 504 Plan;
 - c. The number of students who have a shortened school day *not* because of the student's IEP or 504 Plan, and corrective action(s) taken to ensure that the student(s) is/are not receiving a shortened school day; and
 - d. A list of separate facilities that house programs for students with disabilities that do not operate during the required school hours for the grade levels served.

REPORTING REQUIREMENT: By September 30, 2012, ALDOE will send documentation to OCR confirming implementation of paragraph #5 of the Action Plan.

6. To establish the efficacy of the Tracking System developed pursuant to paragraph #5 above, before implementing the Tracking System State-wide, ALDOE will conduct a test run of the system during the 2011-12 school year, and will develop a plan for gradually phasing in the system State-wide with any necessary modifications to ensure that information is maintained for all Districts by the end of the 2011-2012 school year.

REPORTING REQUIREMENT: By January 31, 2013, ALDOE will

send documentation to OCR confirming implementation of paragraph #6 of the Action Plan.

Training

7. By September 30, 2012, and annually thereafter, ALDOE will provide training to District administrators, transportation directors, 504 coordinators, and special education coordinators on the revisions of ALDOE's transportation system.

REPORTING REQUIREMENT: By September 30, 2012, ALDOE will send documentation to OCR showing the implementation of paragraph #8 of the Action Plan, including, but not limited to, copies of training materials, sign-in sheets, etc.

8. ALDOE will conduct State-wide Monitoring (Monitoring) of Districts' Tracking Systems on a periodic basis (at least once every three years) and prepare reports with the Districts' Monitoring results. The Monitoring requirements may be satisfied by ALDOE's Alabama State Department of Education (SDE) Pupil Transportation Annual Comprehensive Required Plan for Transportation and its LEA System Profile Information Checklist. The Monitoring documents must include, at a minimum, the number of students who have a shortened school day due to medical conditions, behavioral issues or other issues. If a student is identified as having a shortened school day through Monitoring, ALDOE shall require that the district cure the deficiency within 60 days.

ALDOE shall provide OCR with the Monitoring reports on an annual basis for two years.

REPORTING REQUIREMENT: By September 30th of 2012 and 2013, ALDOE will send documentation to OCR demonstrating implementation of paragraph #8 of the Action Plan.

The ALDOE 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 ALDOE understands that during the monitoring of this agreement, if necessary, OCR may visit the ALDOE, interview staff, and request such additional reports or data as are necessary for OCR to determine whether the ALDOE has fulfilled the terms of this agreement and is in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 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. Sections 12131 et seq., and its implementing regulations at 28 C.F.R. Part 35, which was at issue in this case.

The State understands that OCR will not close the monitoring of this Agreement until OCR determines that the State has fulfilled the terms of this Agreement and is in compliance with Section 504 of the *Rehabilitation Act of 1973* (Section 504), 29 U.S.C. Section 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. Sections 12131 et seq., and its implementing regulations at 28 C.F.R. Part 35.

/s/

4-4-2012

State Superintendent of Education

Date