

OCR Complaint Nos. 01-13-1169 & 01-13-1232
Connecticut Technical High School System
Voluntary Resolution Agreement

Consistent with Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504) and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), both of which prohibit discrimination based on disability, the Connecticut Technical High School System (CTHSS) voluntarily agrees to take the following steps to resolve the above-referenced complaints. This Agreement does not constitute an admission by CTHSS of any violation of Section 504 or Title II, or any other Federal or State law.

Systemic Actions

A. Application Process

1. The CTHSS will continue its current application process (with the exception of changes in criteria which may be made in accordance with B below), but include a prominent notice to applicants, as well as a notice to admitted students, that:

“Please note that for students with special needs, a Section 504 or IEP team will determine what special education and/or related aids and services the student needs in the CTHSS environment. Upon enrollment, CTHSS will ensure that needed services are provided to the student and that the student receives a free appropriate public education (FAPE). In limited instances, a Section 504 or IEP team may determine that CTHSS is not an appropriate placement for a student to receive a FAPE.”

2. REPORTING: No later than Oct. 1, 2015, the CTHSS will provide OCR with copies of application packets, admissions letters and any other relevant materials illustrating the wide publication of the above-referenced notice.

B. Admissions Criteria

1. The CTHSS will evaluate its admissions criteria to determine whether they have the effect of disproportionately excluding persons with disabilities.
 - a. This evaluation will include a detailed comparison of the application versus admissions rates for students with and without disabilities. This evaluation will consider all CTHSS admissions criteria that are used, or that CTHSS may be considering for use. This assessment shall consider such criteria individually and in combination with one another, and shall include but not be limited to past academic performance, records of disciplinary infractions, interest inventories, standardized tests, and statements of interest. This evaluation must be conducted by an individual or group of individuals with the expertise necessary to perform this task. CTHSS will ensure that such individual(s) is provided with all information the individual(s) identify as necessary to conduct the assessment.

2. If this evaluation indicates that any admissions criteria (individually or in combination) have the effect of disproportionately excluding students with disabilities from admission, then CTHSS will stop using these criteria for admissions (or, if such criteria are not currently in use, CTHSS agrees to not use in future admissions). The only exception to this requirement is detailed in Term 3 directly below.
3. CTHSS may only use any criteria identified in Term 2, above, if it also demonstrates, through an evaluation, that (i) such criteria have been validated as essential to participation in a CTHSS program, and also (ii) there are no equally valid criteria that do not have such a disproportionate adverse effect on students with disabilities. This evaluation must be conducted by an individual or group of individuals with the expertise necessary to perform this task. CTHSS will ensure that such individual(s) is provided with all information the individual(s) identify as necessary to conduct the assessment.
4. CTHSS specifically acknowledges that the validation standard in Term 3(i) – “such criteria have been validated as **essential** to participation in a CTHSS program” – is different than a validation standard of “predictive success” or similar. CTHSS also acknowledges that the validation standard it has agreed and is required to use is derived from Appendix B to the implementing regulation for Section 504: “Guidelines for Eliminating Discrimination and Denial of Services on the bases of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs.”
5. **REPORTING:** No later than Oct. 1, 2015 CTHSS will provide OCR with the preliminary results of its evaluation described in Terms 1 and 2 above, any information on which the assessment was based, and any descriptions necessary to explain the assessment’s compliance with this section and the outcome.

Furthermore, no later than every 6 months from the date of execution of this Agreement, CTHSS will provide OCR with the results of its evaluation described in Terms 3 and 4 above, any information on which the assessment was based, and any descriptions necessary to explain its compliance with this section and the outcome. CTHSS acknowledges that the purpose of these reports is to identify and implement, as expeditiously as possible, admissions criteria that comport with Federal law. CTHSS also acknowledges that depending on the results of any ongoing evaluation, OCR may require additional monitoring and/or remedial measures to ensure compliance with this Section.

C. Admissions Activity Related to Students with Disabilities

1. CTHSS will continue its training and outreach program to middle school staff to better educate them on the preparation necessary for students to access CTHSS programs, and the special education placement options available in CTHSS schools.

2. CTHSS will continue its practice of participating in IEP or Section 504 team meetings for initially accepted applicants. (CTHSS represents that all students, with and without disabilities, are considered “initially accepted” until their enrollment is finalized.) CTHSS agrees that the main purpose of its participation in these meetings is to allow CTHSS to share its knowledge and expertise about CTHSS programming so that the team, as a whole, can assess what special education, and/or related aids and services must be provided to ensure the student will receive a free appropriate public education (FAPE) in the CTHSS school the following year.
3. CTHSS agrees that it shall not use these team meetings as a forum for imposing additional admissions criteria. CTHSS further agrees that it shall not, at such meetings or otherwise, rescind admission for a student with a disability due to sending school type or any other reason, except through the application of criteria that have been determined to be valid, are listed in admissions materials, are applied evenhandedly to all students, and are consistent with Section B of this Agreement.
4. In limited circumstances, an appropriately constituted team may determine that CTHSS is not an appropriate placement for a student to receive a FAPE. Nothing in this Agreement shall be interpreted to prevent a team from deciding, with input from CTHSS, that a CTHSS school is not or is no longer an appropriate placement, consistent with CT Gen Stat § 10-76 q(c), which states: “If a planning and placement team determines that a student requires special education services which preclude such student’s participation in the vocational education program offered by a technical high school, the student shall be referred to the board of education in the town which the student resides for the development of an [IEP] and such board of education shall be responsible for the implementation and financing of such program.” CTHSS acknowledges that it is the student’s IEP or Section 504 Team that has ultimate authority to decide whether or not a CTHSS placement is or continues to be appropriate to provide each admitted student a FAPE.
5. CTHSS shall work with the Local Education Agency to schedule all such team meetings for initially accepted students with disabilities as soon as possible, and only in unusual circumstances shall such meetings take place after June of each year. CTHSS acknowledges that one of the purposes of this obligation is to ensure that students whose teams determine the student cannot be provided FAPE at a CTHSS school (see Terms above) are afforded as much time as possible to make alternative arrangements for the upcoming school year.
6. CTHSS may request additional team meetings for initially accepted students with disabilities only if necessary to consider service needs and placement concerns for students in unusual circumstances (e.g., additional evaluative information becomes available, or a student’s needs significantly change). In the event additional team meetings are necessary, Terms 2-5 above shall apply to these meeting.
7. **REPORTING:** No later than Oct. 1, 2015 CTHSS will submit for OCR’s review and approval, a draft copy of its revised pre/post admissions policies and procedures detailing

its process for determining student access to and participation in its schools programs and activities. Within thirty (30) days of OCR's approval of all parts of its admissions procedures, CTHSS will provide OCR with a final copy of the procedures

8. REPORTING: No later than Oct. 1, 2015 and ongoing, CTHSS will provide OCR with documentation describing and illustrating the middle school outreach as described in 1. above. This documentation will include at a minimum the names and titles of staff educated, copies of any materials distributed, a description of the outreach event, and a description of the topics addressed in each outreach event.
9. REPORTING: No later than Oct. 1, 2015, CTHSS will provide OCR with a list of any students whose initial acceptance to CTHSS for the 2015-16 school year did not continue to final acceptance. CTHSS will also provide OCR with the IEPs, Section 504 plans, and notes from team meetings for all students who were initially accepted for the 2015-2016 school year, but whose IEP or Section 504 teams determined that CTHSS was not an appropriate placement, along with a narrative explaining the basis for the decision.

D. Individual Remedy

1. CTHSS agrees to offer the Student from Complaint No. 01-14-1262 admission into Bristol Technical Education Center (Bristol TEC) for his junior year and/or senior year, in the trade option of his choice, subject to the following:
 - a. The Student may request to enroll at Bristol TEC for his junior year or his senior year, but must make his request by March of the preceding year.
 - b. The Student is responsible for satisfying all eligibility requirements for admission as a junior or senior. If he does not satisfy the admissions criteria for the Bristol TEC program of his choice, CTHSS may treat his request in the same manner it treats requests/applications by other students who do not meet such criteria (e.g., if students are denied outright, the Student may be denied outright; if students are afforded additional time to demonstrate their eligibility, the Student shall be provided such additional time; etc.).
 - c. CTHSS shall provide the Student with a letter detailing its obligations under this Agreement, which shall also explain timeframes/deadlines and provide contact information for a CTHSS staff member who will be available to answer his questions related to this Section of the Agreement.
2. REPORTING: No later than December 2015 CTHSS will provide to OCR a copy of the letter it provided the Student's family to satisfy D1(c) above. At OCR's request, CTHSS also agrees to send an additional letter(s) to the family to clarify its obligations under this Section, subject to OCR's review and approval
3. REPORTING: No later than April 2016 CTHSS will provide to OCR materials demonstrating whether the Student requested to enroll in a Bristol Tech program, CTHSS' decision, and the basis for this decision.

Monitoring

The CTHSS understands that OCR will not close the monitoring of this agreement until OCR determines that the CTHSS has fulfilled its terms and is in compliance with the regulations implementing Section 504 and Title II which were at issue in this case.

The CTHSS 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 CTHSS understands that during the monitoring of this agreement, if necessary, OCR may visit the CTHSS, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the CTHSS has fulfilled the terms of this agreement and is in compliance with Section 504 and Title II, which was at issue in this complaint.

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

For Connecticut Technical High School System

/s/ Nivea L. Torres
Dr. Nivea L. Torres, Superintendent or
Designee

5/20/15
Date