

Voluntary Resolution Agreement  
Billerica Public Schools  
Complaint No. 01-13-1212

In order to voluntarily resolve the allegations presented in the above-referenced complaint that was filed with the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to 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), against Billerica Public Schools (District), the District agrees to implement the following Resolution Agreement (Agreement).

**Provisions:**

1. By **March 1, 2014**, the District will provide training to District Administrators, including all District Section 504/Title II Coordinator(s) \* concerning the requirements of Section 504 and Title II pertaining to evaluation and the provision of a free appropriate public education (FAPE) for students with disabilities, including:
  - a. Eligibility criteria under Section 504 and Title II (including information on the ADA Amendments Act of 2008);
  - b. Circumstances (including examples, i.e., repeated absence for medical reasons) that trigger the District's obligation to conduct an evaluation under Section 504/Title II;
  - c. The role of evaluations and medical documentation in the Section 504 process;
  - d. The District's obligation to initiate the Section 504 process for students with serious, ongoing, medical issues; and
  - e. The District's system of procedural safeguards under Section 504, including what the safeguards are, and when and how the system of procedural safeguards should be implemented (e.g., that the District's procedural safeguards document should be provided to parents/guardians in relation to decisions regarding identification, evaluation and placement for services under Section 504/Title II).
2. By **April 1, 2014**, and subsequent to the training listed in item #1 above, the District will develop a notice to disseminate to all parents/guardians regarding:
  - a. The District's obligations under Section 504/Title II;
  - b. A brief description of when a student could potentially be eligible for services (thus, triggering an evaluation);
  - c. The name, title and contact information for the District's Section 504/Title II Coordinator(s); and
  - d. Contact information for parents who may have questions/concerns regarding the District's notice.
3. By **June 30, 2014**, the District agrees that it will review and, if necessary, revise its Attendance Policy to ensure that: 1) prior to implementing discipline due to a high number of absences, the District will consider whether such absences were properly documented medical absences and, if so, whether these absences suggest that the Student(s) may have a disability, triggering an obligation to evaluate, and 2) students are not penalized for disability-related absences.

**Reporting Requirements:**

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\*The District has invited the U.S. Department of Education, Office for Civil Rights, to deliver the training referenced in item #1 above.

1. By **January 1, 2014**, the District will provide documentation to OCR from the September 30, 2013 Section 504 Team meeting regarding the Student, including the information, if any, the Team may have considered regarding compensatory educational services related to the Student's medical/disability-related absences during the 2012-2013 school year. If OCR determines the District did not consider compensatory services, the District agrees to reconvene the 504 Team for that purpose and provide documentation to OCR from that meeting by **March 15, 2014**. Such documentation will include information considered, the Team's decision and a description of any compensatory services to be provided to the Student.
2. By **February 15, 2014**, the District will submit to OCR for approval a copy of the proposed Section 504 training referenced in item #1 above (if not delivered by OCR), including name(s) and qualifications of the trainer(s) and an outline of topics and materials to be used in the training.
3. By **March 15, 2014**, the District will submit to OCR for approval its draft notice to parents/guardians, as referenced in item #2 above. OCR will provide any revisions to the District within 60 days of receiving the draft notice. Within 30 days of receiving OCR's revisions, the District will provide OCR with documentation evidencing the dissemination of its notice to all parents/guardians of students at the School, such as by posting it on the District website or sending a letter home.
4. By **June 30, 2014**, the District will provide documentation evidencing compliance with item #3 above (e.g., a copy of its revised Attendance Policy or a written description for how the District plans to consider cumulative medical and/or disability-related absences).

### Monitoring

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 as fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. Part 104, which was 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.

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 Section 504 at 34 C.F.R. Part 104, which was at issue in this case.

\_\_\_\_\_/s/\_\_\_\_\_  
Mr. Tim Piwowar  
Superintendent of Schools

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Date