

**Resolution Agreement
Scarborough Public Schools
Complaint No. 01-14-1293**

The Scarborough Public Schools (District) agrees to implement the terms below to resolve the allegations made to the U.S. Department of Education , Office for Civil Rights (OCR) in Complaint No. 01-14-1293, which alleged disability discrimination under Section 504 of the Rehabilitation Act of 1973 and its implementing regulation found at 34 C.F.R. Part 104 (Section 504), as well as Title II of the Americans with Disabilities Act of 1990 and its implementing regulation found at 28 C.F.R. Part 35 (Title II). The District is signing this Agreement voluntarily and does not admit a violation of either Section 504 or Title II.

I. Student

- A. The District will provide to OCR documentation that it conducted a meeting to determine the aids/services necessary to ensure that the Student is afforded an equal opportunity to participate in the School XXXXXXXX XXXXXXXXXX trip XXXXXXXXXX (Trip), to the maximum extent appropriate to XXXX needs. The documentation will show that the meeting:
1. Included persons knowledgeable about the Student, XXXX disabilities, and the details of the Trip's activities, including Student's parent(s), the XXXXXXXXXX School (School) Principal and Nurse, and the Student's Special Education teacher.
 2. Involved consideration of the following to determine the appropriate aids/services for the Student:
 - The scheduled activities for the trip, including XXXXXXXXXX, XXXXXXXXXX, XXXXXXXXXX and XXXXXXXXXXXXXXXXXX;
 - The Student's current Individual Education Program (IEP) and XXXX Individual Health Care Plan/504 Plan;
 - Input provided by the Student's XXXXXXXXXXXXXXXXXXXX, including XXXX letters to the District, the Nurse's notes of her conversation with the XXXXXXXXXXXXXXXXXXXX on XXXXXXXXXX, 2014, and any other input that the XXXXXXXXXXXXXXXXXXXX , or other care providers, including the Nurse, might provide;
 - The Student's disabilities (including XXXXXXXXXXXXXXXXXXXX, XXXX and XXXXXXXXXX XXXXXXXXXX/XXXXXXXXXXXX XXXXXXXXXX); the functional challenges XXXX faces due to these disabilities; and what has or has not worked for XXXX in the past, including during XXXXXX events;
 - The nexus between the functional limitations of the Student and how each aid/service presented to the Team does or does not address that limitation in a way that allows the Student to access the Trip; and
 - The current level of XXXXXXXX knowledge and experience of the XXXX staff attending the trip.

3. Did not, when *initially* determining the appropriate aids/services for the Student, consider the cost or administrative burden of the proposed aids/services without considering *all* resources available for use by the school district in the funding and operation of the Trip, in recognition that, “although school districts may raise the defense that a needed modification or aid or service would constitute an undue burden to its program, such a defense would rarely, if ever, prevail in the context of extracurricular athletics,” per OCR’s Dear Colleague Letter dated January 25, 2013 (available here: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.html>).
4. Offered responses to the parents’ and Student’s requests for particular aids/services, after considering whether the failure to provide the requested aid/service would deny the Student an equal opportunity to participate in the Trip in an integrated manner to the maximum extent appropriate to XXXXXX needs. While the Team should give serious consideration to the aids/services requested by the Student and XXXXXX parents, the District may also choose to provide alternative aids or services *so long as the alternatives are effective* in addressing the Student’s disability-based functional limitations, so as to provide XXXXXX with an equal opportunity to participate in the Trip, as determined by the Team.
5. Offered that, if the complainants so chose, in lieu of the accommodations/services determined by the Team, the District would cover the expenses for one (1) of the Students’ parents to accompany XXXXXX on the trip, i.e., XXXXXX, XXXXXX.

Reporting:

By **April 1, 2014**, the District will provide to OCR documentation to include minutes from the meeting, copies of any documents considered at the meeting, and the Team’s determination of aids and/or related medical services that are necessary for the Student to participate in the Trip to the maximum extent appropriate to XXXXXX needs, as well as the basis for its determination. If unclear from the meeting minutes, the District will also list the information that the Team considered, as well as a descriptive list of any aids/services that were rejected by the Team and the basis for the rejection. The documentation will also show that the District also made the offer described at Paragraph A5.

- B. After the Trip, by no later than **May 15, 2015**, the District will provide to OCR documentation that, for the Trip, it provided either:
 - 1) Agreed-upon supports for the Student (such as copies of a contract with a nursing agency (or similar), sign-in sheets/schedule for care providers, and/or other sufficient evidence); or
 - 2) Coverage for the expenses of one parent to accompany the Student, i.e., XXXXXX, XXXXXX and XXXXXX.

II. Training

By **September 30, 2014**, the District agrees to provide training to staff on the District's obligation to provide students with disabilities an opportunity to participate in extracurricular activities, including athletics, that is equal to the opportunity provided to students without disabilities, consistent Section 504, Title II and OCR's Dear Colleague Letter dated January 25, 2013, noted above.

1. Such training will be conducted either by OCR staff or by a trainer approved by OCR. If the latter, the District will provide to OCR, for review and approval, the name and credentials of the trainer, as well as the materials to be used, no later than 30 days prior to the date of training.
2. Attendees will include District 504 Coordinator(s) and special education administrators, guidance counselors, school nurses, principals and Assistant Principals, as well as coaches, assistant coaches and Booster Club administrators. The training will include:
 - a. An overview of the District's obligations to students with disabilities under Section 504 and Title II, including the identification, evaluation and placement process;
 - b. The District's obligations, under Section 504 and Title II, to provide equal access to extracurricular activities, including athletics, for students with disabilities, consistent with 34 C.F.R. Sections 104.34(b) and 104.37, and 28 C.F.R. Section 35.130;
 - c. The identification of the District's and building Section 504/Title II Coordinators;
 - d. The grievance process available to students, staff or parents regarding complaints of discrimination under Section 504/Title II and the District's obligation to investigate and resolve any such complaints.

Reporting: the District will provide to OCR copies of a sign- in sheet evidencing that such training occurred no later than **October 31, 2015**.

III. Other Students

The District will review its regulations and procedures regarding the inclusion of students with disabilities in extracurricular activities, including athletics. This review will include consideration of whether the District has an appropriate process for determining how students with disabilities can participate in such activities. The District's process should require individualized determination of:

- The particular student's disability;
- Any Individualized Education Program (IEP) and/or 504 Plan provisions related to field trips and/or extracurricular activities, and
- Any needed accommodations or related aids and services that will allow the student to participate in a particular extracurricular activity.

Any such decisions should be made by persons knowledgeable about the student, the extracurricular activities, the student's disability and appropriate accommodations or aids/services that will provide equal access to the activities. The District's regulation should also provide for the notification of parents and/or guardians so that they can participate in the decision about whether the student with the disability will participate in the activities, and what if any accommodations/modifications, related aids or services will provide the student with the disability with equal access to the activities.

By **October 31, 2014**, the District will submit information to OCR demonstrating that it has reviewed its inclusion regulation/procedure for extracurricular activities, and revised those regulations /procedures as appropriate. The District will submit the regulations to OCR for review and approval.

OCR will monitor the implementation of the above terms through the District's submission of the requested documents. The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulation implementing Section 504, and Title which were issues 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 of Section 504 of the Rehabilitation Act of 1973 and its implementing regulation found at 34 C.F.R. Section 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation found at 28 C.F.R. Part 35 (Title II).

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.

Dr. George H. Entwistle III
Superintendent of Schools

Date