

302 RESOLUTION AGREEMENT

Bangor School Department

Complaint No. 01-15-1033

The Bangor School Department (District) voluntarily agrees to take the following actions to resolve the above-referenced complaint as investigated by the U.S. Department of Education's Office for Civil Rights (OCR). OCR investigated this complaint pursuant to its jurisdiction under 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 regulations found at 28 C.F.R. Part 35 (Title II).

I. District Actions

- A. By November 20, 2015, the District will develop and submit for OCR's approval, procedures for the identification, evaluation and placement of students who need or are believed to need special education and/or related aids and services pursuant to Section 504 and Title II. The procedures will ensure that:
1. Any student who may need special education and/or related aids and services because of a disability is evaluated before taking any action with respect to the student's initial placement in regular or special education, and before any subsequent significant change in placement;
 2. If a parent requests a Section 504 evaluation, the decision to evaluate shall be clearly communicated to the parent, and the evaluation(s) to be conducted are determined by a placement team and promptly carried out;
 3. The District is ultimately responsible for collecting evaluative data concerning a suspected disability;
 4. Tests and other evaluation materials are administered by trained personnel and are reliable and are valid for the purpose for which they are being used;
 5. In making eligibility decisions, the team determines whether the Student has a mental or physical impairment that substantially limits one or more major life activities;
 6. Placement decisions are made by a group of persons knowledgeable about the student, the evaluation data, and the placement options;
 7. Placement decisions are based on information from a variety of sources, with information from all sources being carefully considered and documented;
 8. Decisions about education and services are based on the individual needs of the student and the provision of regular/special education and/or related aids and services may not be delayed because of concern about the actual or potential cost;
 9. Students are periodically reevaluated, and are reevaluated prior to any significant change of placement, which includes a disciplinary exclusion, or a pattern of exclusions, lasting more than 10 days;

10. Timeframes are clearly articulated for the major steps in the identification, evaluation and placement of a student;
 11. Parents or guardians must be provided notice of their procedural safeguards at appropriate decision points;
- B. By November 20, 2015, the District will develop and submit to OCR its process for affording parents/guardians the right to an impartial due process hearing on issues related to the identification, evaluation, and placement of students with disabilities. The District will also revise its notice of procedural safeguards to explain to parents/guardians how to pursue an impartial due process hearing.
 - C. Within two weeks of OCR's approval, the District will provide OCR with documentation that it has provided notice of the above procedures to all staff and parents of students with Section 504 plans, in print and online.
 - D. By March 4, 2016, the District will provide training to the Section 504 Coordinator and an alternate on the District's Section 504/Title II policies. The District will provide OCR with the materials to be provided at the training and the identification of trainer(s) for OCR's review and approval two weeks prior to the training. Within one week following the training, the District will provide OCR with documentation that the training took place.

Monitoring

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 regulations implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36, and Title II, at 28 C.F.R. §35.130(a) and (b)(1)(iii), which were at issue in this case. The District 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 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 Section 504 and Title II, which were 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.

This Agreement has been entered into voluntarily by the District and does not constitute an admission that it is not in compliance with Section 504 or Title II or their implementing regulations.

/s/ September 24, 2015

Date

/s/

Director of Pupil Services
Bangor School Department
75 Harlow Street
Bangor, ME 04401