

**RESOLUTION AGREEMENT**  
**Portsmouth School Department**  
***OCR Complaint No. 01-15-1104***

The Portsmouth School Department (District) has entered into this agreement to resolve the allegation in the above-referenced complaint. The District assures that it will take the following actions.

1. The District will work with OCR to revise its Section 504 manual. By November 15, 2018, the District will post the OCR-approved manual on its website and provide notice of the manual to staff and parents/guardians via email.
2. Reporting requirement: By November 15, 2018, the District will provide OCR with a link to the manual on its website and documentation that it has provided notice of the manual to staff and parents/guardians.
3. The District will develop and implement a clear protocol for reviewing the records of all students on an Individualized Health Care Plan (IHCP) as of the date of this agreement to determine which students are eligible for a Section 504 plan. This protocol will:
  - a. Designate the person responsible for overseeing the entire process and maintaining relevant records.
  - b. Provide written notice to the parents of students with IHCPs. At a minimum, notice will set forth:
    - i. Section 504 requires the District to provide a free appropriate public education to qualified students with a disability.
    - ii. A qualified student with a disability is a student who has a physical or mental impairment which substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.
    - iii. The School Section 504 Coordinator has appointed a Section 504 team for each student with an IHCP to meet and consider whether the student is eligible for a Section 504 plan and/or whether additional evaluations are necessary to make an eligibility determination.
    - iv. Parents are invited to attend or participate via telephone.
    - v. If parents do not consent to this referral, parents must provide a denial of consent. The District will keep records of the parents' denial of consent (i.e., the name of the parent, when it was received, by whom, and whether it was received in writing or verbally).
    - vi. Contact information for the School and District Section 504 Coordinators if parents have questions regarding IHCPs versus Section 504 plans.

vii. Links to resources on OCR’s website.<sup>1</sup>

4. Reporting Requirement: By September 15, 2018, the District will provide OCR with a spreadsheet listing all students on IHCPs as of the date of this agreement, their school, and the date that parents were sent notice.
5. Reporting Requirement: By November 15, 2018, the District will provide OCR with an updated spreadsheet that includes either 1) the information in provision 3(b)(v) regarding denial of consent, or 2) the date of the Section 504 meeting and the team’s decision at the meeting (i.e., determination regarding eligibility or the need for additional evaluations).
6. Reporting Requirement: By December 31, 2018, for students for whom the District held Section 504 meetings, the District will provide supporting documentation of the meetings for each student in the form of 1) a Section 504 plan, 2) documentation of additional evaluations, and/or 3) documentation that the parents have denied consent for Section 504 services or for additional evaluations.

#### Individual Remedy

7. By September 15, 2018, the District will send the Complainant a letter. The letter will state the District’s commitment to conducting evaluations pursuant to Section 504 if the District believes that the Student needs or is believed to need services under Section 504, in the event that the Student re-enrolls in the District.
8. Reporting Requirement: By September 15, 2018, the District will provide OCR with a copy of the letter.

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 the 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. Upon the District’s satisfaction of the commitments made under the Agreement, OCR will close the 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 sixty (60) calendar days to cure the alleged breach.

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<sup>1</sup> For example: *Protecting Students with Disabilities* at <https://www2.ed.gov/about/offices/list/ocr/504faq.html>, and *Q&A on the ADA Amendments Act of 2008* at <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>, pointing out Q13 specifically.

The Agreement will become effective immediately upon the signature of the District's representative below.

By: /s/ \_\_\_\_\_ Date: 8/21/18 \_\_\_\_\_  
Ana C. Riley, Superintendent of Schools