

**RESOLUTION AGREEMENT**  
**Lynn Public Schools**  
***OCR Complaint No. 01-16-1006***

Lynn Public Schools (District) voluntarily enters into this agreement (the Agreement) to resolve the allegations in the above-referenced complaint. The District assures that it will take the following actions and will meet its obligation to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.

**Action Item 1**

By **February 13, 2018**, the District will determine:

- (a) which students currently enrolled in the District (or the parents or guardians of such students) received a copy of the form letter (hereinafter, the “Letter”) referenced in the attached resolution letter;
- (b) for each student, parent, or guardian identified in Action Item 1(a), whether the student, parent, or guardian received notice of the District’s system of procedural safeguards, as required by 34 C.F.R. § 104.36, contemporaneously and in connection with the Letter;
- (c) for each student, parent, or guardian identified in Action Item 1(a), whether the applicable student’s educational placement was changed in the manner described in the Letter;
- (d) for each student, parent, or guardian identified in Action Item 1(c) for whom the applicable student’s placement was changed, whether the District conducted an evaluation of the applicable student in accordance with 34 C.F.R. § 104.35(c) prior to changing the student’s educational placement in the manner described in the Letter; and
- (e) for each student, parent, or guardian identified in Action Item 1(c) for whom the applicable student’s placement was changed, whether the applicable student has a currently effective Individualized Education Program (IEP) that accurately reflects his or her actual educational placement.

**Action Item 2**

For every student, parent, or guardian, if any, that the District identifies in Action Item 1(b) as having not received notice of the District’s system of procedural safeguards, as required by 34 C.F.R. § 104.36, contemporaneously and in connection with the Letter, the District will send written notice of the District’s system of procedural safeguards to the student, parent, or guardian

by certified mail at the individual's last known address by **February 23, 2018**. This written notice shall satisfy the requirements of 34 C.F.R. § 104.36 and shall include:

- (a) a copy of the Letter that the student, parent, or guardian previously received; and
- (b) a statement that the District is providing notice of its system of procedural safeguards in relation to the change in educational placement that it previously proposed in the Letter.

### **Action Item 3**

For every current student that the District identifies in Action Item 1(d) whose educational placement was changed in the manner described in the Letter without the student first being reevaluated in accordance with 34 C.F.R. § 104.35(c), the District will convene the student's IEP team (or if the student does not presently have an IEP team, a group of individuals satisfying the requirements of 34 C.F.R. § 104.35(c)(3)) by **March 26, 2018** to determine:

- (a) if the failure to evaluate the student prior to changing the student's educational placement resulted in the denial of a FAPE for the student; and
- (b) if so, what compensatory and/or remedial services will be provided to the student to remedy said denial of FAPE.

The District will take reasonable steps to obtain the participation of any current student's parent or guardian in each meeting that the District convenes pursuant to Action Item 3, including attempting to communicate with the parent or guardian through multiple methods if necessary (by letter, phone, and email) and ensuring that each meeting is held at a time and place that is mutually convenient to both the parent or guardian and the District. The District will provide the current student's parent or guardian with a meaningful opportunity to provide input into each determination made pursuant to Action Item 3, as well as notice of each determination made, and notice of the procedural safeguards available to the parent or guardian under 34 C.F.R. § 104.36, including the parent's or guardian's right to challenge each determination made pursuant to Action Item 3 through an impartial due process hearing should the parent or guardian disagree.

### **Action Item 4**

For every student that the District identifies in Action Item 1(e) who has a currently effective IEP that does not accurately reflect his or her actual educational placement, the District will, by **March 26, 2018**:

- (a) return the student to the educational placement specified in the student's currently effective IEP;
- (b) provide written notice to the student's parent or guardian of the following:
  - (i) the date that the District changed the student's educational placement to that

specified in the student’s currently effective IEP; and

(ii) the District’s system of procedural safeguards, as required by 34 C.F.R. § 104.36; and

(c) convene the student’s IEP team to determine

- (i) whether the educational placement specified in the student’s currently effective IEP remains reasonably calculated to afford the student a FAPE, and if not, what educational placement will afford the student a FAPE; and
- (ii) whether the failure to implement all accepted elements of the student’s IEP resulted in the denial of a FAPE for the student and if so, what compensatory and/or remedial services, if any, will be provided to the student to remedy said denial of FAPE.

The District will take reasonable steps to obtain the participation of the current student’s parent or guardian in each meeting that the District convenes pursuant to Action Item 4, including attempting to communicate with the parent or guardian through multiple methods if necessary (by letter, phone, and email) and ensuring that each meeting is held at a time and place mutually convenient to the parent or guardian and the District. The District will provide the student’s parent or guardian with a meaningful opportunity to provide input into each determination made pursuant to Action Item 4, as well as notice of each determination made, and notice of the procedural safeguards available to the parent or guardian under 34 C.F.R. § 104.36, including the parent’s or guardian’s right to challenge each determination made pursuant to Action Item 4 through an impartial due process hearing should the parent or guardian disagree.

#### **Action Item 5**

By **March 26, 2018**, the District will conduct training for all of its special education administrators and team chairs regarding 34 C.F.R. § 104.35, which requires the District to reevaluate a student who is eligible to receive special education or related services under the Individuals with Disabilities Education Act or Section 504 before any significant change in the student’s educational placement. Training topics will include, at minimum, the definition of a “significant change in placement” and the requirement that the District document all evaluation data used in making placement decisions, including by documenting how the District’s consideration of the evaluation data resulted in the District’s placement decision. Such training shall address and be consistent with Section 504, Title II, and their implementing regulations.

#### **Action Item 6**

By **March 26, 2018**, the District will conduct training for all of its special education administrators and team chairs regarding 34 C.F.R. § 104.36, which requires the District to provide the parent or guardian of a student who, because of disability, needs or is believed to need special instruction or related services, notice of the following with respect to all actions regarding the identification, evaluation, or educational placement of the student:

- (a) the action itself;
- (b) an opportunity to examine records relevant to the action;
- (c) an impartial hearing to challenge the action with opportunity for participation by the student's parent or guardian and representation by counsel; and
- (d) a review procedure to challenge the results of the impartial hearing should the parent or guardian remain dissatisfied.

Such training shall address and be consistent with Section 504, Title II, and their implementing regulations.

### **Reporting Requirements**

- (a) By **February 23, 2018**, the District will provide to OCR its written assurance that it is no longer using, and will refrain from using, the Letter or any similar document in any District school.
- (b) By **February 23, 2018**, the District will provide to OCR the following documentation:
  - (i) a list of all students, parents, and guardians identified in Action Item 1(a) who received the Letter;
  - (ii) a copy of each Letter that the District sent to each student, parent, and guardian identified in Action Item 1(a);
  - (iii) a list of all students, parents, and guardians identified in Action Item 1(b) who did not receive notice of the District's system of procedural safeguards, as required by 34 C.F.R. § 104.36, contemporaneously and in connection with the Letter;
  - (iv) a list of all students identified in Action Item 1(c) whose educational placement was changed in the manner described in the Letter, as well as the date on which the District changed the educational placement of each student identified in Action Item 1(c);
  - (v) a list of all students identified in Action Item 1(d) who were not reevaluated in accordance with 34 C.F.R. § 104.35(c) prior to the District changing their educational placements in the manner described in the Letter;
  - (vi) a list of all students identified in Action Item 1(e) whose currently effective IEPs do not accurately reflect their actual educational placement; and

- (vii) a brief description of how the currently effective IEP for each student identified in Action Item 1(e) differs from the student's actual educational placement.
- (c) By **February 23, 2018**, the District will provide to OCR a copy of the written notice required by Action Item 2 sent to each student, parent, and guardian identified in Action Item 1(b).
- (d) By **April 9, 2018**, the District will provide to OCR the following documentation for each meeting convened pursuant to Action Items 3 and 4, if any:
  - (i) a list of attendees that includes the names and titles of those at the meeting(s), and that identifies which person(s) are knowledgeable about each student; his or her disability; any notes from the meeting, and the placement options (if the student's parent or guardian does not participate in the meeting, the District will provide documentation evidencing the District's efforts to obtain the parent's or guardian's participation);
  - (ii) a report of the District's method of determining whether each student was denied a FAPE and, if so, the District's method of determining the compensatory and/or remedial services that will be provided to the student to remedy said denial of a FAPE;
  - (iii) a description of the compensatory and/or remedial services necessary to remedy the denial of a FAPE for each student, if any;
  - (iv) a list of staff by name and title who are responsible for the provision of compensatory services, if any, to each student; and
  - (v) a schedule for providing each student with all identified compensatory services, if any.
- (e) Within 30 days of the completion of the provision of each student's compensatory services, if any, identified in Reporting Requirement (d)(iv), but no later than **January 24, 2019**, the District will provide documentation to OCR of the dates, times, and locations that the compensatory education or other remedial services were provided to each student, including the name(s) and title(s) of the service provider(s).
- (f) By **April 9, 2018**, the District will provide to OCR a copy of the written notice sent to each student, parent, and guardian identified in Action Item 4(b).
- (g) Within 10 days of the training specified in Action Items 5 and 6, the District will provide documentation to OCR demonstrating that it provided the specified training. This documentation will include at minimum: the date(s) of the training; the name(s) and credentials of the trainer(s); copies of any training materials used, including any handouts, guides, or other materials; sign-in sheets; and a list of the individuals who attended the training and their titles or positions.

## General Requirements

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District to 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 regulations implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 sixty (60) calendar days to cure the alleged breach.

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

By: /s/ Catherine Latham Date: 1/24/18  
Lynn Public Schools