

RESOLUTION AGREEMENT
Manchester Essex Regional School District
OCR Complaint No. 01-16-1251

The Manchester Essex Regional School District (District) has voluntarily entered into this agreement (Agreement) with the U.S. Department of Education, Office for Civil Rights (OCR) 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) and Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

Action Item 1: Section 504 Policy

- a. The District will develop policies and procedures regarding the evaluation, identification, and placement of students under Section 504 (the Section 504 Policy). Specifically, the District's Section 504 Policy must include the following items:
 1. A clarification of how the District's Section 504 Policy interacts with any other District policies that apply to students with disabilities including, "Nondiscrimination on the Basis of Handicap," "Special Instructional Programs and Accommodations (Programs for Children with Special Needs)," and "Programs for Students with Disabilities."
 2. Evaluation procedures that include standards and procedures for the timely evaluation and placement of students who because of their disability need or are believed to need special education or related services under Section 504, in compliance with 34 CFR § 104.35(b).
 3. Placement procedures that set standards and procedures for interpreting evaluation data and making placement decisions, in compliance with 34 CFR § 104.35(c).
 4. Reevaluation procedures that provide for the periodic reevaluation of students who have been provided special education and related services under Section 504, in compliance with 34 CFR § 104.35(d).
 5. Procedural safeguards that include notice, an opportunity for parents/guardians to review relevant records, an impartial hearing with opportunity for participation by the student's parents/guardians, representation by counsel, and a review procedure, in compliance with 34 CFR § 104.36.

- b. The District will include in its Section 504 Policy either separate grievance procedures for resolving complaints of disability discrimination or a cross-reference to a separate District policy that provides grievance procedures for resolving complaints of disability discrimination, consistent with the requirements of 34 CFR § 104.7. The grievance procedures should be distinct from the procedural safeguards required by 34 CFR § 104.36. The grievance procedures must include the following items:
 1. Notice to students, parents/guardians, and employees of the grievance procedures, including where complaints may be filed.
 2. Application of the grievance procedures to complaints alleging harassment carried out by employees, other students, or third parties.
 3. Provision for adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence.
 4. Designated and reasonably prompt timeframes for the major stages of the complaint process.
 5. Notice to the parties of the outcome of the complaint.
 6. An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.
- c. The District will also include in its Section 504 Policy a statement that the District prohibits retaliation against any individual who asserts rights or privileges under Section 504 or who files a complaint, testifies, assists, or participates in a proceeding under Section 504.

Reporting Requirements

1. By March 30, 2018, the District will provide for OCR's review and approval a draft of the Section 504 Policy.
2. Within sixty (60) calendar days of OCR's written approval of the Section 504 Policy, the District will provide written notice to OCR that the District has formally adopted the Section 504 Policy and electronically disseminated the Section 504 Policy to students, parents/guardians, and employees. The District will also provide OCR the following documentation:
 - a. Evidence of the electronic dissemination of the Section 504 Policy; and
 - b. A copy of any publications or a link to any website containing the Section 504 Policy.

Action Item 2: Revised Homebound Instruction Policy

- a. The District will revise its “Homebound Instruction” policy (the Homebound Instruction Policy) to ensure that it is consistent with Massachusetts law and guidance. The revised Homebound Instruction Policy will also include a provision that allows a parent/guardian to submit supplemental information from the student’s physician if the District finds that the physician’s initial statement did not satisfy Massachusetts’ requirements for homebound instruction.

Reporting Requirements

1. By March 30, 2018, the District will provide OCR:
 - a. A copy of the revised Homebound Instruction Policy.
 - b. A statement of assurance from the District’s legal counsel that (i) the revised Homebound Instruction Policy is consistent with Massachusetts law and guidance; (ii) the District has formally adopted the revised Homebound Instruction Policy; and (iii) the District electronically disseminated the revised Homebound Instruction Policy to students, parents/guardians, and employees.

Action Item 3: Training

- a. Section 504 Policy: Within sixty (60) calendar days of OCR’s written approval of the District’s Section 504 Policy, the District will provide training to all administrators, Student Services staff, special education teachers, and any other staff responsible for the implementation of Section 504 and Title II. Such training will cover the District’s Section 504 Policy, including the evaluation, identification, and placement of students eligible for Section 504 plans and the District’s Section 504 grievance procedures.
- b. Homebound Instruction Policy: By, May 30, 2018 the District will provide training to all administrators, Student Services staff, and any other staff responsible for reviewing requests for home tutoring on the revisions made to the District’s Homebound Instruction Policy.
- c. Child Requiring Assistance (CRA) Truancy Application Training: By May 30, 2018, the District will provide training to all administrators and any other staff responsible for filing CRA truancy applications regarding when CRA truancy applications may be filed, how to calculate a student’s number of unexcused absences, and the maintenance of records related to CRA truancy applications.
- d. Retaliation: By -May 30, 2018, the District will provide training to all administrators, Student Services staff, special education teachers, and any other staff responsible for the implementation of Section 504 and Title II on the prohibition against retaliating against any individual who asserts rights or privileges under Section 504 or who files a

complaint, testifies, assists, or participates in a proceeding under Section 504, including by filing CRA truancy applications.

Reporting Requirement:

1. Within thirty (30) calendar days of the training required by Action Item 3(a), the District will certify to OCR that the training has occurred in accordance with this Agreement and will provide copies of all training materials and information on who attended the training.
2. Within thirty (30) calendar days of the training required by Action Item 3(b), the District will certify to OCR that the training has occurred in accordance with this Agreement and will provide copies of all training materials and information on who attended the training.
3. Within thirty (30) calendar days of the training required by Action Item 3(c), the District will certify to OCR that the training has occurred in accordance with this Agreement and will provide copies of all training materials and information on who attended the training.
4. Within thirty (30) calendar days of the training required by Action Item 3(d), the District will certify to OCR that the training has occurred in accordance with this Agreement and will provide copies of all training materials and information on who attended the training.

Action Item 4: XXXXXX

- a. If the Complainant submits a request XXXXXXXXXXXX prior to December 31, 2018, the District will follow the procedures outlined in its XXXXXX policies, in determining whether the Complainant's request meets the requirements of Massachusetts law and the District's XXXXXX policies. The District assures OCR that it will not retaliate against the Complainant for her prior advocacy on behalf of the Student and that the District will not treat the Complainant's request XXXXXXXXXXXX differently due to the Student's disability status.

Reporting Requirements

1. By December 31, 2018, the District will provide OCR with a written statement that explains whether the Complainant submitted a request XXXXXXXXXXXX, and if so, an explanation of the District's response to such request.

Action Item 5: XXXXXX in the District

- a. If the Complainant seeks to XXXXXXXXXXXX in the District for the 2017-2018 school year and the Student has a previously accepted IEP or Section 504 Plan XXXXXXXXXXXX and the Parent provides MERSD with a copy of the accepted IEP or Section 504 Plan from her previous school district, the District will:

1. Provide the Student with special education and related services in a comparable setting without delay until a new IEP or Section 504 Plan is developed in accepted, consistent with 603 CMR 28.03(c)(1); and
 2. Promptly schedule an IEP or Section 504 Team meeting to develop a new IEP or Section 504 Plan for the Student in accordance with IDEA or Section 504, as applicable.
- b. If the Complainant seeks to XXXXXXXXXXXX in the District for the 2017-2018 school year and the Student does not have an IEP or Section 504 Plan XXXXXXXXXXXX, the District will:
1. Promptly consider any request from the Complainant or any District staff member to have the Student evaluated for special education and/or related services under IDEA or Section 504, and will evaluate and determine the educational placement of the Student in accordance with IDEA or Section 504, as applicable.

Reporting Requirements

1. By December 31, 2018, the District will provide OCR with a written statement that explains whether the Complainant sought to XXXXXXXXXXXX in the District for the 2017-2018 school year and the steps the District took to ensure that the Student was provided with the special education and/or related services to which she was entitled.

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. The District understands that OCR will not close the monitoring of the Agreement until such time that OCR determines the District has fulfilled the terms of the Agreement and is in compliance with the statutes and regulations that were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close 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/
Pamela Beaudoin
Superintendent

Date: 12/12/17