

RESOLUTION AGREEMENT
School Administrative Unit Number 9
OCR Complaint No. 01-16-1260

School Administrative Unit Number 9 (District) voluntarily enters into this agreement (Agreement) to resolve the allegations in the above-referenced complaint. The District assures the U.S. Department of Education, Office for Civil Rights (OCR) 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), which were at issue in this case. By entering into this Agreement, the District makes no admission of any violation of Section 504, Title II, or any other law OCR enforces.

Action Item 1

By March 15, 2020, the District will revise its Section 504 and Title II grievance procedure (the Grievance Procedure) to ensure that it incorporates appropriate due process standards and provides for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 or Title II. The Grievance Procedure will specify what constitutes a complaint sufficient to trigger the resolution process outlined in the Grievance Procedure.

The District will prominently post the revised Grievance Procedure on the District’s website, include it in its “Section 504 of the Rehabilitation Act Handbook” so that it can be readily obtained by students, parents, employees, and other third parties, replace any prior versions of the procedure in any District publication with the revised version, and notify all students, parents and employees via electronic communication (i.e., email and/or social media postings) of: (1) the revised Grievance Procedure specifying how the District will promptly and equitably respond to complaints alleging disability discrimination or retaliation in violation of Section 504 and Title II, and (2) how to access the Grievance Procedure.¹

Action Item 2

By March 15, 2020, the District will revise its Section 504 notice of nondiscrimination to specify:

- (a) that the District has designated the District’s Section 504 coordinator to coordinate the District’s efforts to comply with Section 504 and its implementing regulation at 34 C.F.R. Part 104; and
- (b) that the District does not discriminate on the basis of disability in violation of Section 504 and its implementing regulation at 34 C.F.R. Part 104.²

¹ This notification may also include information related to the District’s written procedure for processing requests for the District to make reasonable modifications to its policies, practices, or procedures to ensure equal opportunities are afforded individuals with disabilities, referenced in Action Item 6, below.

² In addition, if the District chooses to provide contact information for OCR in its Section 504 notice of nondiscrimination, it must be current.

The Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

The District will post the revised Section 504 notice of nondiscrimination on the District’s website and in its “Section 504 of the Rehabilitation Act Handbook” so that it can be readily obtained by students, parents, employees, and other third parties, and it will replace any prior versions of the notice in any District publication with the revised version.

Action Item 3

If the Student’s parent informs the District’s Superintendent that she/he intends to reenroll her/his son (the Student) in the District during the 2019-2020 or 2020-2021 school years, the District will, within 15 business days of receiving such notice from the parent: request that the Student’s parents submit all current evaluative information that they may possess pertaining to the Student’s disabilities and seek consent from a parent to authorize the Student’s health care provider(s) to discuss the Student’s disability-related needs with the school nurse. At the time it makes these requests, the District will inform the parents that it will complete the evaluation process stated under this Action Item regardless of whether the Student’s parents provide the requested information or consent to the District.

Within 15 days of a parent’s response to the District’s request for evaluative information (including any refusal to provide the information or consent sought by the District), the District will:

- (a) convene a group of individuals satisfying the requirements of 34 C.F.R. § 104.35(c)(3) to determine:
 - (i) whether the District possesses sufficient individualized evaluation data, including any such data provided to the District by the Student’s parent or designee, to determine which regular or special education and related aids and services, if any, are necessary to meet the Student’s needs as adequately as the needs of students without disabilities are met, and
 - (ii) what additional, individualized tests or other evaluation materials (hereinafter, evaluations) satisfying the requirements of 34 C.F.R. § 104.35(b), if any, are necessary to make such a determination; and
- (b) provide the Student’s parents a written notice containing:
 - (i) the District’s determinations with respect to Action Item 3(a);
 - (ii) a request for the Student’s parent to provide written consent, within 14 calendar days, for the District or its designee to conduct any evaluations determined by the group of individuals (i.e., Team) pursuant to Action Item 3(a)(ii), at District expense, to the extent the Team determines such additional individualized evaluations are necessary; and
 - (iii) a copy of the District’s procedural safeguards satisfying the requirements of 34 C.F.R. § 104.36.

If the Student’s parent provides the Superintendent her/his written consent, as requested pursuant to Action Item 3(b)(ii), the District will, within 60 calendar days of receiving the parent’s written consent:

- (c) coordinate with the parent to conduct the evaluations identified in Action Item 3(a)(ii) at District expense and at a time and place that is mutually agreeable to the District and the parent;
- (d) convene a group of individuals satisfying the requirements of 34 C.F.R. § 104.35(c)(3) to document and carefully consider all of the available individualized evaluation data concerning the Student, including any such data provided to the District by a parent or her/his designee, and to determine, based solely on the available individualized evaluation data, which regular or special education and related aids and services are necessary to meet the Student’s needs as adequately as the needs of students without disabilities are met; and
- (e) provide the parents a written notice containing the District’s:
 - (i) determination(s) with respect to Action Item 3(d); and
 - (ii) a copy of procedural safeguards satisfying the requirements of 34 C.F.R. § 104.36.

The District will take reasonable steps to obtain the parent’s participation in any meeting(s) that the District convenes pursuant to Action Item 3(d), including by scheduling such meeting(s) at a time during school hours that is convenient to both the parent and the District. The District will provide the parent with a meaningful opportunity to provide input into each determination made pursuant to Action Item 3(d) and will promptly implement all regular or special education and related aids and services determined in Action Item 3(d) upon the Student’s reenrollment in the District if such reenrollment occurs during the 2019-2020 or 2020-2021 school years.

Action Item 4

Within 10 calendar days from execution of this Agreement, the District will pay the Complainant the amount of \$2,426.76 to compensate the Complainant for expenses she incurred in transporting the Student to a xxxxxxxx school through xxxxxxxx grade.

Action Item 5

If the Student’s parent informs the District’s Superintendent that she/he intends to reenroll the Student in the District during the 2019-2020 or 2020-2021 school years, the District will send correspondence to the Complainant within 15 business days of receiving such notice from the parent offering to consider reasonable modifications to its policies, practices and procedures that are necessary due to any disability that she may have. The correspondence will request that the Complainant submit documentation from a qualified examiner to substantiate the existence of the

Complainant’s disability, the functional limitations imposed by the Complainant’s disability, and the scope of modifications needed.

Upon receipt of said documentation, the District will promptly engage in an interactive and collaborative process with the Complainant to determine whether the Complainant’s condition constitutes a disability under Section 504 and Title II and, if so, whether any reasonable modifications of the District’s policies, practices, and procedures are necessary to afford the Complainant an equal opportunity to participate in District programs, activities and services.

Action Item 6

By April 15, 2020, the District will create a written procedure for processing requests for the District to make reasonable modifications to its policies, practices, or procedures to provide individuals with disabilities an equal opportunity to participate in District programs, activities and services. The procedure will include reasonable requirements for individuals with disabilities³ to provide documentation of their disability and request reasonable modifications pursuant to 28 C.F.R. § 35.130(b)(7) and 34 C.F.R. § 104.4.

The District will prominently post the written procedure for processing requests for the District to make reasonable modifications to its policies, practice, or procedures to ensure equal opportunities are afforded individuals with disabilities on the District’s website, include it in its “Section 504 of the Rehabilitation Act Handbook” so that it can be readily obtained by students, parents, employees, and other third parties, and notify all students, parents and employees via electronic communication (i.e., email and/or social media postings) of: (1) the procedure specifying how the District will process requests for reasonable modifications to the District’s policies, practices, or procedures to ensure equal opportunities are afforded individuals with disabilities, and (2) how to access this procedure.⁴

Action Item 7

The District will conduct training for all District Administrators and employees with responsibility for the evaluation, placement, and provision of services to students under Section 504, including, but not limited to, all Principals, Assistant Principals who are members of Section 504 teams, Section 504 Team Chairpersons, nurses, counselors, other related service providers, and members of the Student’s Section 504 team during the 2015-2016 school year. The training will address the following topics:

- (a) the District’s revised Grievance Procedure;
- (b) the District’s procedure for processing requests for the District to make reasonable modifications to its policies, practices, or procedures for individuals with disabilities to avoid discrimination on the basis of disability;

³ Or, if the individual with a disability seeking reasonable modifications is a minor, his or her parents or guardians.

⁴ This notification may also include information related to the District’s Grievance Procedure, referenced in Action Item 1, above.

- (c) the District’s obligation to make educational placement determinations for students who need or are believed to need special education or related services due to disability based solely on the available individualized evaluation data;
- (d) the District’s obligation to provide regular or special education and related aids and services to qualified students with disabilities as necessary to meet the needs of such students as adequately as the needs of students without disabilities are met, without regard to any assumptions that certain aids or supports cannot be provided;
- (e) the District’s obligation to promptly seek the consent of the parent or guardian of a student who needs or is believed to need special education or related services due to disability for the District or its designee to conduct individualized assessment(s) of the student, at District expense, if a group of individuals satisfying the requirements of 34 C.F.R. § 104.35(c)(3) determines that the District does not possess sufficient individualized evaluation data to determine whether the student is a qualified student with a disability or which regular or special education and related aids and services are necessary to meet the needs of the student as adequately as the needs of students without disabilities are met;
- (f) the District’s obligation to implement all regular or special education and related services to which a qualified student with a disability is entitled, as written in the student’s Section 504 plan or as otherwise agreed to by the student’s Section 504 team;
- (g) the obligation of District employees to promptly report any alleged violation of Section 504 or Title II of which the employee is aware, including those brought to their attention by students, parents, other employees, or third parties, to appropriate District officials, including the District’s Section 504 coordinator; and
- (h) the District’s obligation – carried out by the Section 504/Title II Coordinator or her designee – to promptly and equitably respond, to the extent possible given the available information, to all alleged violations of Section 504 or Title II of which a District employee is aware or should be aware, regardless of whether a complainant or witness declines to cooperate fully with the District and regardless of whether the allegations are made through a “formal complaint” filed pursuant to the District’s Grievance Procedure.

Administrators who attended this training will address the obligations under paragraphs (a), (b), (f), and (g) under Action Item 7 with all school employees within 45 school days of the initial training.

Reporting Requirements

- (a) If the Student’s parent informs the Superintendent that she/he intends to reenroll the Student in the District during the 2019-2020 or 2020-2021 school years, the District will provide the written notice referenced in Action Item 3(b) to OCR, including

documentation demonstrating that the notice was provided to the parent, within 30 business days.

- (b) If the Student’s parent informs the Superintendent that she/he intends to reenroll the Student in the District during the 2019-2020 or 2020-2021 school years, within 75 calendar days of the date the parent provides the Superintendent the written consent (if sought and obtained by the District) referenced in Action Item 3, the District will provide to OCR:
 - (i) the written notice referenced in Action Item 3(e);
 - (ii) documentation of the District’s efforts to obtain the Student’s parent’s participation in any meeting(s) that the District convenes pursuant to Action Item 3(d); and
 - (iii) documentation of the available individualized evaluation data concerning the Student and of how the District’s careful consideration of this data resulted in the District’s determination(s) with respect to Action Item 3(d).
- (c) If the parent does not inform the Superintendent that she intends to reenroll the Student in the District during the 2019-2020 or 2020-2021 school years, the District will inform OCR of that fact within 15 calendar days of the end of the 2020-2021 school year.
- (d) Within 20 calendar days from execution of this Agreement, the District will provide OCR proof that the District has complied with Action Item 4 regarding reimbursement to the Complainant.
- (e) By April 1, 2020, the District will provide to OCR:
 - (i) the District’s revised Grievance Procedure, referenced in Action Item 1; and
 - (ii) the District’s revised Section 504 notice of nondiscrimination, referenced in Action Item 2.
- (f) By May 1, 2020, the District will provide to OCR:
 - (i) the District’s written procedure for processing requests for the District to make reasonable modifications to its policies, practices, or procedures in order to provide individuals with disabilities an equal opportunity to participate in District programs, activities and services, referenced in Action Item 6;
 - (ii) the URL(s) where the aforementioned procedure is posted;
 - (iii) the URL(s) where the revised Grievance Procedure is prominently posted;

- (iv) the URL(s) where the revised Section 504 notice of nondiscrimination is posted;
 - (v) the District’s revised “Section 504 of the Rehabilitation Act Handbook”;
 - (vi) a list of District publications in which the District has replaced any prior versions of the procedures referenced in Action Items 1, 2, and 6 with the revised version; and
 - (vii) a copy of the electronic communications referenced in Action Items 1 and 6.
- (g) Within 15 calendar days from the date that the Student’s parent informs the District’s Superintendent that she/he intends to reenroll the Student in the District during the 2019-2020 or 2020-2021 school years, the District will provide the written correspondence referenced in Action Item 5 to OCR.
- (h) If the Complainant seeks reasonable modifications as set forth in Action Item 5, the District will provide to OCR all correspondence and other documentation in the District’s possession relating to the District’s efforts to engage in an interactive and collaborative process with the Complainant to determine what reasonable modifications of the District’s policies, practices, and procedures, if any, are necessary to provide the Complainant an equal opportunity to participate in the District’s programs, activities and services, within 15 days of the District’s determination.
- (i) Within 15 calendar days of the training specified in Action Item 7, 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 qualifications of the trainer(s); sign-in sheets; a list of the individuals who attended the training and their titles or positions; and a copy of the training materials used during the training. The District will provide documentation meeting the same requirements with respect to the trainings conducted by administrators referenced in Action Item 7 within 15 calendar days of such training.

General Requirements

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 and obligations of this Agreement.

Upon the District’s satisfaction of the commitments made under this Agreement, OCR will close this case.

