

**RESOLUTION AGREEMENT**  
**New Bedford Public Schools**  
**Case No. 01-17-1189**

The New Bedford Public Schools (District) enters into this Agreement to resolve the allegation 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:**

The District agrees to do the following:

- (a) By April 13, 2018, issue a notice of a Section 504 evaluation team meeting regarding the Student. The notice should include an agenda or otherwise state that the Team plans to discuss the behavior-related referrals regarding the Student and concerns about the Student being harassed.
- (b) No later than April 25, 2018, convene a Section 504 evaluation team regarding the Student, including persons knowledgeable about Section 504/Title II, the Student, the evaluative data, and the placement options.
- (c) At the meeting, listen to and consider the Student's parent's concerns regarding the Student being harassed or bullied during the XXXXXXXXXX school year through the present;
- (d) At the meeting, discuss the behavior-related referrals regarding the Student from the XXXXXXXXXX school year through the present, and the Student's current progress;
- (e) After considering the above information, and any other relevant evaluative information, determine whether the Student requires 504 services to provide him with a free appropriate public education;
- (f) Maintain detailed minutes reflecting (c),(d), and (e); and
- (g) Provide the parent with a copy of the procedural safeguards.

**Reporting Requirement 1:**

By April 30, 2018, the District will submit to OCR a copy of the meeting minutes and other supporting documentation referred to in Action Item 1, including an explanation for the decisions.

## **ACTION ITEM 2:**

By May 7, 2018, the District will provide training to its Section 504/Title II Coordinators, Keith Middle School staff responsible for special education and the evaluation and placement of students on Section 504 plans, and staff and administrators responsible for handling disciplinary incidents and peer-harassment, including the specific roles of school staff involved in the implementation of Section 504 and Title II on the legal obligations of the District under Section 504 and Title II, and shall specifically include:

- (a) Disability-based harassment under Section 504 and Title II;
- (b) The District's responsibilities and obligations under Section 504's FAPE requirements when a student with a disability is harassed or bullied on any basis;
- (c) Section 504's requirement that (1) a school district refer for an initial evaluation any student who needs or is believed to need special education or related services due to a disability, and (2) refer for a reevaluation any student already on a Section 504 and/or IEP when the school district is on notice that this Student's needs may have changed, and/or (3) prior to any significant change of placement;
- (d) The District's obligation to conduct a timely evaluation in the above circumstances referred to in subsection (c); intervention strategies should not delay or deny an evaluation of a student where required;
- (e) Examples, including hypothetical situations triggering the district's obligation to evaluate students in the three scenarios above (initial evaluation; reevaluation when needs may have changed; reevaluation prior to significant change of placement), including, without limitation, documentation of a mental or physical impairment or other information from care providers; increased absenteeism; increased disciplinary incidents; considerable restlessness or inattention inappropriate for the age/grade level; trouble organizing tasks and activities; communication or social skills deficits; and/or changes in grades or social interactions, including bullying, indicating that a student may have a disability requiring special education or related aids or services.

Reporting Requirement 2: By May 11, 2018, the District will submit to OCR documentation demonstrating that the above-described training was delivered in accordance with this Agreement, including:

- i. Agendas, copies of all training materials, and documentation of participants from the trainings.
- ii. The name(s) and qualification(s) of the trainer(s).

## **ACTION ITEM 3:**

By May 7, 2018, the District will provide training and resources to its faculty and staff on the legal obligations of the District under Section 504 and Title II. The District has represented that it instituted various resources for faculty and staff under new leadership at the Keith Middle School: teacher mentors in various areas, including special education; teacher group meetings with team coordinators; and professional development. Consistent with these changes, the District will:

- (a) Share the materials for the training referenced in Action Item 2 with all faculty and staff in print or electronically.
- (b) Conduct meetings with faculty and staff, led by at least one person who attended the training referenced in Action Item 2, to discuss the contents of the training, specifically:
  - a. Disability-based harassment under Section 504 and Title II;
  - b. The District's responsibilities and obligations under Section 504's FAPE requirements when a student with a disability is harassed or bullied on any basis;
  - c. Section 504's requirement that (1) a school district refer for an initial evaluation any student who needs or is believed to need special education or related services due to a disability, and (2) refer for a reevaluation any student already on a Section 504 and/or IEP when the school district is on notice that this Student's needs may have changed, and/or (3) prior to any significant change of placement.
  - d. The District's obligation to conduct a timely evaluation in the above circumstances referred to in subsection (c); intervention strategies should not delay or deny an evaluation of a student where required;
  - e. Examples, including hypothetical situations triggering the district's obligation to evaluate students in the three scenarios above (initial evaluation; reevaluation when needs may have changed; reevaluation prior to significant change of placement), including, without limitation, documentation of a mental or physical impairment or other information from care providers; increased absenteeism; increased disciplinary incidents; considerable restlessness or inattention inappropriate for the age/grade level; trouble organizing tasks and activities; communication or social skills deficits; and/or changes in grades or social interactions, including bullying, indicating that a student may have a disability requiring special education or related aids or services.
- (c) Identify mentors and in-person resources for faculty and staff for questions that may arise about the identification, evaluation, placement, and implementation of special education and related aids and services.

Reporting Requirement 3: By May 11, 2018, the District will submit to OCR documentation demonstrating that the above-described materials were disseminated and discussed in accordance with this Agreement, including:

- i. Copies of emails or correspondence sent to faculty and staff of the training materials referenced in Action Item 2;
- ii. Copies of emails, correspondence, or handouts identifying mentors and in-person resources for faculty and staff;
- iii. Documentation demonstrating the District's completion of Action Item 3(b) including, but not limited to, copies of handouts, feedback or comments from team meeting participants, and written confirmation by team coordinators that the items in Action Item 3(b) were discussed.

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.

4/5/2018  
Date

/s/  
Kimberli Bettencourt,  
Executive Director of Special Education  
and Student Services  
New Bedford Public Schools