



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I
5 POST OFFICE SQUARE, 8th FLOOR
BOSTON, MASSACHUSETTS 02109-392

RESOLUTION AGREEMENT
School Administrative Unit #29 - Keene
OCR Complaint No. 01-19-1137

School Administrative Unit #29 (District) has entered into this agreement to resolve the allegation in the above-referenced complaint. The District agreed to resolve this complaint prior to the completion of OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*. The District assures that it will take the following actions.

By entering into this Agreement, the District is not admitting that it has violated any laws enforced by OCR or their implementing regulations.

Action Item 1

By December 1, 2021, after providing proper written notice to the Student's parents, the District will convene an Individualized Education Program (IEP) team meeting for the Student. The District will ensure that the team includes a group of persons who are knowledgeable about the Student and his disability, the meaning of the Student's evaluation data, and the placement options. At the meeting, the team will:

- a. Review the results of the Student's Functional Behavioral Assessment XXXXXXXX XXXXX XXXXXXXXX by the District and develop and implement a revised behavior plan, and/or revise provisions in the Student's IEP, as appropriate to meet the Student's needs under Section 504, including:
 - i. if the Student needs to access the Panther's Den, how and when the Student accesses the Panther's Den (formerly, the Student Success Center), e.g., for planned breaks and/or escalated behavior;
 - ii. if needed, de-escalation strategies/techniques to use for the Student in the classroom and/or the Panther's Den;
 - iii. if the Student needs to access the Panther's Den, the provision of individualized instruction to the Student in the Panther's Den and/or opportunities to make up missed instruction/services; and
 - iv. the circumstances in which the Student's parents would be contacted and when the Student would be sent home for his behavior.
- b. Assess the amount and nature of the instruction/services missed by the Student during the 2018-2019 school year when he was in the Student Success Center or dismissed prior to the end of the school day due to his behavior, and determine whether compensatory services are appropriate for the Student based on the missed instruction/services.

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

Reporting Requirements

1. By December 15, 2021, the District will submit to OCR a copy of the following materials:
 - a. a list of attendees that includes the names and titles of those at the meeting;
 - b. meeting minutes;
 - c. the Student's revised IEP and/or intervention/behavior plans;
 - d. the results of the team's assessment of the instruction/services missed by the Student during the 2018-2019 school year;
 - e. an explanation of the team's determination for the type and amount of compensatory services deemed appropriate for the Student; and
 - f. documentation showing the Student received any compensatory services deemed appropriate by the team and/or a schedule for providing the Student with any remaining services.

Action Item 2

The District will ensure that all staff responsible for implementing the Student's IEP and/or behavior plan have received and reviewed the revised plan(s) for school year 2021-2022, and the District will also advise staff on how to raise any questions regarding the implementation of the Student's plan(s).

Reporting Requirement

By December 15, 2021, the District will provide a description and any relevant documentation regarding how it disseminated the Student's IEP and behavior plan to all relevant staff and confirmed that the staff members reviewed the plans and were informed of how to raise questions.

Action Item 3

- a. The District will complete its ongoing development and implementation of a protocol for documenting and tracking the use and efficacy of de-escalation strategies used for the Student's (and other students') behavior. The information recorded for each behavioral incident will include but not be limited to: the circumstances in which the Student accesses the Panther's Den (including escorts); the length of time the Student spends in the Panther's Den, including time in and time out; strategies/techniques attempted and the Student's responses; when administrators and/or the Student's parents are contacted regarding the Student's behavior; and the occasions when the Student leaves school prior to the end of the school day, including the time of removal/dismissal. The protocol will also ensure that the Student's parents are provided with reports of behavioral incidents in a timely manner.
- b. The District will ensure that the above information is added to the Student's file and considered by the IEP team in determining whether there is information suggesting that the Student's educational program may not be meeting his individual needs such that a re-evaluation is necessary, including a review by the IEP team of the information recorded pursuant to the above protocol.

Reporting Requirements

1. By December 1, 2021, the District will submit to OCR a description of the protocol, including any templates/forms, and documentation showing that it disseminated and reviewed the protocol with staff responsible for implementing it.
2. If applicable, by January 15, 2021, the District will also provide documentation demonstrating that data obtained by use of the protocol has been added to the Student's file for the IEP team's consideration (e.g., copies/summaries of the data, IEP team minutes, etc.). The District will provide an explanation of whether or not it has referred the Student for a re-evaluation to date and the reason(s) why.

Action Item 4

The District will review, develop and revise as necessary its policies and procedures to ensure that for a student receiving special education or related aids and services:

- a. Where there is information suggesting that the student's educational program that may not be meeting their individual needs (e.g., a significant decline in the student's behavior or grades, behavior that is so disruptive to the education of the student or peers that it results in repeated removals and/or dismissals from the student's current placement, including Panther's Den referrals and/or dismissals prior to the end of the school day, etc.), a group of knowledgeable persons should consider whether referral to a re-evaluation is necessary, including a review of specific information regarding the use and effectiveness of strategies/interventions attempted for a student; and
- b. Where the student's behavior plan is developed to address conduct related to their disability, that the behavior plan is developed pursuant to IEP and/or Section 504 processes with all applicable procedural protections.

Reporting Requirements

1. By December 15, 2021, the District will submit its policies and procedures to OCR for its review and approval.
2. Within thirty (30) calendar days of OCR's approval, the District will adopt, implement, and publish the revised policies and procedures. The District will make this information available through the District's website and any other additional means of notification the District deems effective to ensure that the information is disseminated. The District will provide OCR with documentation that it has completed this item, including copies of written notices to students, parents/guardians, administrators, and staff, and a copy of any publications (such as handbooks) or a link to any website containing the policy.
3. By January 15, 2022, the District will provide a list of students at the school who experienced repeated removals and/or dismissals prior to the end of the school day from the start of the 2021-2022 school year through December 31, 2021. For each student, the District will provide a description of whether the student was referred for re-evaluation, including Section 504/IEP team meeting minutes, the data reviewed for

the student, and the reason(s) for its decision; if a student was not referred for re-evaluation, the District will provide an explanation why.

Action Item 5

By December 1, 2021, the District will provide its planned Section 504 training to administrators, Section 504 coordinator(s), and IEP/504 team chairs. The training will address the District's revised policies/procedures in Action Item 4, including the District's obligations to: (a) evaluate and/or reevaluate students when the District has information that indicates a student's current educational program is not meeting the student's individual needs (e.g., a significant decline in the student's behavior or grades, behavior that is so disruptive to the education of the student or peers that it results in repeated removals and/or dismissals from the student's current placement, including Panther's Den referrals and/or dismissals prior to the end of the school day, etc.); (b) update IEPs/504 plans in a timely manner when the IEP or 504 team determines a student will be provided with different or additional services; and (c) develop and implement behavior plans pursuant to IEP and/or Section 504 processes, when appropriate, with applicable procedural protections.

Reporting Requirements

1. By December 15, 2021, the District will provide:
 - a. a copy of the training materials used as well as the credentials of the trainer/presenter;
 - b. a list of the individuals who attended the training and their positions;
 - c. the date(s) the training was conducted; and
 - d. copies of any training materials disseminated.

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 and obligations 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 proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the Recipient 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/_____
Superintendent
School Administrative Unit #29

Date: _____