

RESOLUTION AGREEMENT
Maine Department of Education
OCR Complaint No. 01-20-1052

The Maine Department of Education (MDOE) has voluntarily entered into this agreement to resolve the allegation in the above-referenced complaint. By entering into this agreement, MDOE does not admit to any error, wrongdoing, or liability on its part.

MDOE agreed to resolve this complaint prior to the completion of OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*.

MDOE agrees that it will take the following actions.

Action Item 1

MDOE will adopt a policy for the provision of accommodations to students, parents/guardians, and other due process hearing participants with disabilities, when necessary to ensure equal access to the due process hearing process. The policy shall include a procedure for such individuals to request accommodations, and for MDOE to evaluate and respond to these requests and provide accommodations. The policy shall include:

- a) Instructions for filing accommodations requests, including:
 - i. Contact information for the office / position that receives requests for accommodations,
 - ii. An explanation that individuals should request accommodations at the time of filing for or responding to the request for the due process hearing,
 - iii. An explanation that hearing officers will refer any requests for accommodations received during the hearing process to same office / position identified in *i*.
 - iv. A copy of any form used to request accommodations,
 - v. A list of any supporting documentation that should be provided, and
 - vi. Whether and how much advance notice is required.

- b) Guidelines for considering accommodations requests, including:
 - i. Circumstances in which additional documentation may be sought, and
 - ii. A statement that MDOE will make reasonable modifications in its policies, practices, or procedures when the modifications are necessary to ensure equal access and avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the due process hearing process.

Reporting Requirements:

1. By May 1, 2020, MDOE will submit its accommodations policies and procedures to OCR for its review and approval.

2. Within thirty (30) calendar days of OCR’s approval, MDOE will adopt, implement, and publish the policies and procedures. MDOE will make this information available to all MDOE Office of Special Services Dispute Resolution staff and will publish this information on the MDOE’s Special Services website. MDOE will provide OCR with documentation that it has completed this item, including a copy of the email or memorandum disseminating this policy to MDOE staff and a link to the website containing this policy.

Action Item 2

Within sixty (60) days of adopting the accommodations policy and procedure outlined in Action Item 1, MDOE will provide training to hearing officers regarding requests for accommodations. The training, which can be done by teleconference, will include:

- a) The identification of the MDOE position responsible for processing requests for accommodations, including contact information,
- b) The duty of hearing officers to refer requests for accommodations to the MDOE position responsible for processing requests for accommodations,
- c) A reminder of Section 504 and Title II’s requirements that:
 - i. no qualified individual with a disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under a recipient’s programs or activities on the basis of disability, and
 - ii. reasonable modifications to policies, practices, or procedures must be made when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity, and
- d) An overview of the policy adopted in Action Item 1 for submitting and processing requests for accommodations.

Reporting Requirement

Within fifteen (15) days of conducting the training specified in Action Item 2, MDOE will provide to OCR:

- a) A list of the current hearing officers,
- 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.

MDOE 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, MDOE understands that during the monitoring of this Agreement, if necessary, OCR may visit MDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether MDOE has fulfilled the terms and obligations of this Agreement. Upon MDOE’s satisfaction of the commitments made under the Agreement, OCR will close the case.

MDOE 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 MDOE 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 MDOE's representative below.

By: _____/s/_____ Date: _____
Jessica Nixon, Chief of Staff & Operations
Maine Department of Education