

RESOLUTION AGREEMENT
Franklin West Supervisory Union
OCR Complaint No. 01-23-1070

Franklin West Supervisory Union (District) has voluntarily entered into this agreement to resolve Allegation 1 in the above-referenced complaint. The District assures that it will take the following actions. The District agreed to resolve this allegation prior to the completion of OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*.

Action Item 1: Policies and Procedures

The District will review and revise, as necessary, its Section 504/Title II policies and procedures, including XXXXXXXXXXXXXXXXXXXXXXXX (School) handbook and any other District handbooks or other publications relating to the topics listed in this Action Item. The policies and procedures will include: (a) the District's obligation to evaluate any student who, because of disability, needs or is believed to need special education or related services to meet their individual educational needs as adequately as the needs of students without disabilities are met, regardless of whether those needs are characterized as academic; and (b) the appropriate criteria for determining whether a student is a qualified individual with a disability under Section 504 and Title II (including information from the Americans with Disabilities Act Amendments Act that the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses may not be considered). The policies and procedures will make clear that the evaluative process may not be delayed or denied to try other supportive measures. In addition, the policies and procedures will identify, and include (at least) the name, office address, and telephone number for, the District's Section 504/Title II Coordinator(s) (including any school-level coordinator(s)).

Reporting Requirements:

1. By **July 31, 2023**, the District will submit its policies and procedures to OCR for its review and approval.
2. **Within forty-five (45) 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 its 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 student handbooks) or a link to any website containing the policies and procedures.

Action Item 2: Training

The District will provide Section 504/Title II training to the District's Section 504 Coordinator(s), Principals, and any staff directly involved in the Section 504 evaluation process. The training will include an overview of Section 504's procedural requirements, including the

standard for determining whether an individual has a disability and Section 504 evaluation procedures. The training will clarify that while a school district may use regular education intervention strategies to assist students with difficulties in school, Section 504 requires school districts to timely refer a student for an evaluation for possible special education or related aids and services if the student, because of disability, needs or is believed to need such services to meet their individual educational needs as adequately as the needs of students without disabilities are met and to complete the evaluation within a reasonable period. The training will also address that school districts may not consider the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses when making a disability determination. Lastly, the training will clarify that staff cannot require parents/guardians to provide documentation of a formal diagnosis as a precondition to evaluating or making a disability determination, and explain that if a school district determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to conduct a Section 504 individual evaluation, the district must ensure that the student receives this assessment at no cost to the student's parents/guardians.

Reporting Requirements

1. By **June 30, 2023**, the District will provide, for OCR's review and approval, a copy of the training materials it will use, as well as the credentials of the trainer/presenter.
2. By **October 1, 2023**, the District will provide to OCR:
 - a. A list of the individuals who attended the training and their positions;
 - b. The date(s) the training was conducted; and
 - c. Copies of any training materials disseminated.

Action Item 3: File Review

The District will determine, for the XXXXXXXX school year, whether there were any students in the School (a) whose Section 504 eligibility determinations were delayed or denied while the District attempted other interventions or supports (e.g., through the School's EST process), and who then were either determined to be ineligible under Section 504 or whose eligibility determinations were not completed, or (b) who were found ineligible on the basis that their disability did not significantly affect school/academic performance. For each student, the District will consider whether it has reason to suspect that the student has a mental or physical impairment that substantially limits one or more major life activities and who consequently needs or is believed to need special education or related services to meet their individual educational needs as adequately as the needs of students without disabilities are met. For all such students, the District shall promptly convene a team meeting to determine eligibility. If it is determined that any such student is eligible for special education or related services under Section 504, the team shall also consider whether compensatory services are needed to address the delayed eligibility determination and implementation of services pursuant to a Section 504 plan.

The District understands that OCR will not close the monitoring of the agreement until such time as OCR determines that the District is in compliance with the terms of the agreement and the statute(s) and regulation(s) at issue in the case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of breach. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

The resolution agreement will become effective immediately upon the signature of the District's representative below.

By: /s/ John Tague _____ Date: 5/11/2023 _____
John Tague, Superintendent