

RESOLUTION AGREEMENT

New York City Department of Education OCR Case No. 02-12-1253

In order to resolve Case No. 02-12-1253, the New York City Department of Education (the NYCDOE) assures the U.S. Department of Education, New York Office for Civil Rights (OCR) that it will take the following actions pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1:

By December 2, 2013, the NYCDOE will convene a meeting of a group of persons knowledgeable about each student enrolled in xxxx xxx in the Bronx (xxxxxx xxxx) and scheduled to receive SETSS for school year 2011-2012, who is still enrolled in the school, and will invite each such student's parent(s) to attend. The group will determine whether each such student requires additional services to benefit from instruction due to the fact that he/she may not have received SETSS as required by his/her Individualized Education Plan (IEP) or Section 504 Plan during the 2011-2012 school year. It is expressly understood that the group shall have independent discretionary authority to determine whether any additional services are required. If the group determines that additional services are appropriate for any student, the group shall develop a plan to provide the student with such services, with a completion date for providing the services not to extend beyond June 30, 2014. When appropriate, a contract agency may be used, or a SETSS (P-3) letter may be issued for these services. School officials will assist parents in finding a SETSS provider if a SETSS (P-3) letter is issued.

Reporting Requirements:

- a. By December 2, 2013, the NYCDOE will confirm with OCR that the meetings have taken place; and will submit an explanation for decisions made, and a description of and schedule for providing additional services, if any, to each student for whom additional services are required under the terms of this agreement.
- b. By July 31, 2014, the NYCDOE will provide documentation to OCR demonstrating that it has provided each student identified in the preceding paragraph with any additional services deemed necessary. The documentation will include the dates, times, and locations that services were provided, and the name(s) of the service provider(s).

Action Item 2:

By July 31, 2014, NYCDOE will provide documentation to OCR demonstrating that xxxx xxx students with IEPs requiring SETSS services were provided with these services during school year 2013-2014. At a minimum, this report will include the names of students that required SETTS

services at xxxx xxx during school year 2013-2014, and whether each of these students received the SETTS services required by their IEPs. Documentation from the Special Education Student Information System (SESIS) with this information will be sufficient to satisfy this requirement.

The NYCDOE understands that OCR will not close the monitoring of this agreement until OCR determines that the NYCDOE has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§104.33(a), 104.33(b)(1)(i) and 104.33(b)(2), which were at issue in this case. The NYCDOE also understands that by signing this agreement, it agrees to provide data and other information in a timely manner. Further, the NYCDOE understands that during the monitoring of this agreement, OCR may visit the NYCDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the NYCDOE has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§104.33(a), 104.33(b)(1)(i) and 104.33(b)(2), which were at issue in this case. The NYCDOE 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 NYCDOE written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

11/26/2013
Date

/s/
Judy Nathan, First Deputy Counsel
New York City Department of Education