

Resolution Agreement
Toms River Regional School District
OCR Case No. 02-15-1008

In order to resolve the above referenced complaint, the Toms River Regional School District assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that pursuant to the applicable requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104; and Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, it will take the following actions:

Action Item 1:

By July 31, 2015, the District will adopt and publish grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging discrimination or harassment on the basis of disability (and may include other bases) filed by students, employees, and third parties.

If the District chooses to use the “Nondiscrimination Grievance Procedure” as the applicable procedure to address complaints alleging discrimination or harassment on the basis of disability (or other bases), the District will ensure that students, employees and third parties understand that any other District procedures are separate and distinguishable (such as the “Chain of Command” procedure). The revised “Nondiscrimination Grievance Procedure” or other grievance procedure developed by the District shall contain, at a minimum, the provisions listed below (if not already included).

- a statement setting forth the District’s commitment to having an environment free from all discrimination and harassment on the basis of disability (the statement may include other bases). The statement will explain that the District prohibits discrimination and harassment in the campus environment, including all academic, athletic and school-sponsored activities. The statement will also specify that the District will investigate all formal and informal complaints of harassment;
- a recommendation that District staff who observe acts of harassment intervene to address the harassment and promptly report the incident;
- an explanation of how to file a complaint pursuant to the procedures;
- the name, title, office address, and telephone number of the individual(s) with whom to file a complaint;
- the various steps the District will take to conduct an adequate, reliable, and impartial investigation of all complaints, including the interim preventative steps the District will take to ensure the safety of the complainant and the larger school community during the investigation;

- an opportunity for the parties to identify witnesses and provide or identify evidence;
- designated and reasonably prompt timeframes for the major stages of the grievance process;
- a requirement that an investigatory report be filed at the conclusion of the investigation;
- an assurance that the District will ensure that the complainants are informed of their rights and have an opportunity to discuss available resources;
- an assurance that the District will offer counseling and academic support services, as necessary and appropriate, to any person found to be subjected to harassment, and where appropriate, counseling to the person(s) who committed the harassment;
- written notice to the parties of the outcome;
- notice of the opportunity for the parties to appeal the findings;
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision-maker;
- an assurance and the action steps the District will take to prevent recurrence of harassment and to correct its discriminatory effects, if appropriate; and
- a statement that retaliation against any individual who files an informal or formal complaint or participates in a complaint investigation is prohibited, and is subject to disciplinary or other action.

Reporting Requirements:

- a) By May 15, 2015, the District will provide for OCR's review and approval, copies of the revised grievance procedure(s) it proposes to utilize for students, employees, and third parties to file complaints of discrimination or harassment on the basis of disability (which may include other bases).
- b) Within 30 days of OCR's approval of the grievance procedure(s), the District will provide documentation to OCR demonstrating that it has formally adopted the grievance procedure(s); updated any printed publications and on-line publications that contain the procedure(s) (inserts may be used pending reprinting of these publications); and electronically disseminated the grievance procedure(s) to students, faculty and staff. This documentation will include, at a minimum: (i) printouts or a link to all on-line publications containing the grievance procedure(s); (ii) evidence of the electronic dissemination of the grievance procedure(s) to students, faculty and staff; and (iii) if not yet finalized, copies of inserts for printed publications, if any.
- c) By September 30, 2015, the District will provide to OCR copies of the printed versions, if any, of all publications disseminated to students, faculty, and staff

containing the grievance procedure(s) or will provide an electronic copy of such publication.

Action Item 2: Notice of Non-Discrimination

By May 15, 2015, the District will ensure that its notice of nondiscrimination includes the name, title and contact information for its Section 504/ADA Coordinator (and other coordinators as appropriate) wherever it is found. The District will broadly publish its revised notice of nondiscrimination, including on the District's web site and in any recruitment materials or publications containing general information (either in printed form or electronically) that it makes available to participants, beneficiaries, applicants, or employees.

Reporting Requirement: By May 15, 2015, the District will provide to OCR a copy of its amended notice of nondiscrimination and a list of the titles of the publications in which its notice of nondiscrimination appears (e.g. catalogs, web site, student handbook) and a copy of at least one publication disseminated to the campus community, or printouts or a link to an on-line publication containing the notice. Inserts may be used pending reprinting of publications.

Action Item 3:

By July 30, 2015, and periodically thereafter, the District will provide training to 504/ADA Coordinators (and other coordinators as appropriate), and all administrators and other personnel responsible for investigating complaints of discrimination and retaliation. The District's training will cover the District's new grievance procedure(s), and will provide attendees with instruction on recognizing and appropriately addressing allegations and complaints of discrimination and harassment. The training will include information concerning what constitutes disability discrimination and retaliation (and discrimination on other bases, as appropriate), and the District's responsibilities to address allegations of discrimination and retaliation. Additionally, the training will include instruction on how to conduct and document adequate, reliable, and impartial investigations.

Reporting Requirement: By July 30, 2015, the District will provide documentation to OCR demonstrating that the District provided training to the employees referenced in Action Item 3 above. This documentation will include: (a) the date(s) the training was conducted; (b) the name(s), title(s), and credentials of the individual(s) who conducted the training; (c) a list of the individuals who attended the training and their positions and proof of their attendance; and (d) a list of all training materials used and disseminated, including handouts, guides, or other materials.

Action Item 4:

By July 30, 2015, and July 30, 2016, for school years 2014-2015 and 2015-2016, respectively, the District will report on its efforts to ensure that it has responded promptly and effectively to any alleged incidents of disability discrimination and/or retaliation, of which it has notice, with

action that is reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

Reporting Requirement: By July 30, 2015, and July 30, 2016, the District will provide a report to OCR regarding any oral and/or written complaints of disability discrimination or retaliation made during school years 2014-2015 and 2015-2016, respectively. The report to OCR will include, at a minimum (a) a copy of the complaint or a description of any orally reported alleged incident(s) of disability discrimination or retaliation; (b) the date(s) of receipt of the written complaint or oral report; (c) a description of the District's findings and response to the incident(s); and (d) the date(s) that the District provided notice of the outcome of its investigation in writing to the parties.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.7(b) and 104.8, and the ADA, at 28 C.F.R. §§ 35.106 and 35.107(b), which were at issue in this case. The District also 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 this 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 of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.7(b) and 104.8, and the ADA, at 28 C.F.R. §§ 35.106 and 35.107(b), which were at issue in 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.

Date

David M. Healy
Superintendent of Schools
Toms River Regional School District