

## **RESOLUTION AGREEMENT**

### **Yonkers Public Schools Case No. 02-15-5001**

In order to resolve Case No. 02-15-5001, the Yonkers Public Schools assures the U.S. Department of Education, Office for Civil Rights (OCR) that it will take the actions detailed below pursuant to the 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 (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 I: Procedures for Pre-Placement Interventions and Placement Decisions**

- 1) By October 31, 2016, the District will send a memorandum to all administrators, teachers, and other staff who are members of the Pupil Support Team (PST) at each District school, reminding them of the District's policies and procedures regarding the PST process. Effective immediately, the District will ensure that the PSTs at each District school complete and submit the Pupil Support Team Packet (PSTP) when referring a student to the Committee on Special Education (CSE) for an evaluation, consistent with the District's policy, including the Pre-referral Intervention Plan and Pupil Support Team minutes and follow-up.
- 2) By October 31, 2016, the District will send a memorandum to all administrators, teachers, and other staff who are authorized to make placement decisions for disabled students, reminding them of the District's policies and procedures regarding the PST process and the District's policies and procedures with regard to the identification, evaluation, and placement of disabled students for special education services. Effective immediately, the District will ensure that the group of knowledgeable persons that makes placement decisions regarding qualified individuals with disabilities, such as the CSE, places disabled students in the regular educational environment, unless the group demonstrates, in writing, that the education of the disabled student in the regular educational environment cannot be achieved satisfactorily even with the use of supplementary aids and services, consistent with the regulation implementing Section 504, at 34 C.F.R. § 104.34. At a minimum, the group will be required to document the following:
  - That the PST provided a PSTP consistent with the District's policy, including the Pre-referral Intervention Plan and Pupil Support Team minutes and follow-up;
  - A description of the interventions attempted in the regular educational environment and why these were chosen for the individual student;
  - A description of how these interventions were implemented;
  - A statement regarding the amount of time these interventions were implemented; and,
  - A statement regarding why and how these interventions did not result in satisfactorily achieving education of the student in the regular educational environment; or,
  - A demonstration based on an educational assessment by a licensed practitioner that the student's disability is so severe that attempting interventions in the regular educational environment is not necessary to demonstrate that education of the disabled student in the

regular educational environment cannot be achieved satisfactorily with the use of supplementary aids and services.

### **Reporting Requirements:**

- a) By October 31, 2016, the District will provide documentation to OCR demonstrating that the memoranda referenced in Action Item I were disseminated to all administrators, teachers and other staff who are members of the PST and/or authorized to make placement decisions for disabled students.
- b) By June 30, 2017, and June 30, 2018, for school years 2016-2017 and 2017-2018, respectively, the District will provide to OCR a list of students initially classified during the respective school year, along with a copy of each of these students' Individual Educational Programs demonstrating that they were placed appropriately and that the CSE followed the District's policies and procedures, and the regulation implementing Section 504, at 34 C.F.R. § 104.34, in determining the appropriate educational setting for the student. The documentation will include, for each student, the documentation outlined in Action Item I.

### **Action Item II: Training**

- 1) By November 30, 2016, the District will train all administrators, teachers, and other staff who are members of the PST, regarding the District's policies and procedures with respect to the PST process; including the requirement to provide a PSTP upon referral to the CSE with the Pre-referral Intervention Plan and Pupil Support Team minutes and follow-up.
- 2) By November 30, 2016, the District will train all administrators, teachers, and other staff who are authorized to make placement decisions for disabled students, regarding the District's policies and procedures with respect to the identification, evaluation, and placement of disabled students for special education services; including the requirement that disabled students are to be placed in the regular educational environment unless the group demonstrates, in writing, that the education of the disabled student in the regular educational environment cannot be achieved satisfactorily even with the use of supplementary aids and services, consistent with the regulation implementing Section 504, at 34 C.F.R. § 104.34. The training will also include the documentation requirements listed in Action Item I above.

**Reporting Requirement:** By December 31, 2016, the District will provide documentation to OCR demonstrating that it has provided the training referenced in Action Item II, including: (a) the name(s) and title(s) of the individuals who conducted the trainings; (b) a list of the individuals who attended the trainings and their positions; (c) the date(s) the trainings were conducted; and (d) copies of any training materials disseminated.

### **Action Item III: Students Currently Placed in Self-Contained Settings**

During school year 2016-2017, in conjunction with annual reviews, the District will review the placement of all disabled students in self-contained settings, to ensure that these students are

classified appropriately and are in the appropriate educational setting. The District will utilize the documentation requirements listed Action Item I above in demonstrating that the determination regarding placement in a self-contained setting is consistent with the regulation implementing Section 504, at 34 C.F.R. § 104.34. If the group determines that a student is not in the appropriate educational setting, the District will immediately conduct a reevaluation and place the student appropriately. Any reevaluations must be conducted within 30 days of the group's determination, but no later than May 31, 2017; and, placement decisions should be made within 30 days after the completion of the reevaluation, but not later than August 31, 2017. Additionally, the District will consider whether the student requires compensatory and/or remedial services if the group determines that the student was not in the appropriate educational setting. Any compensatory and/or remedial services must be provided no later than December 31, 2017. The District will ensure that each of these students is placed in the regular educational environment (i.e., the least restrictive environment) unless it is demonstrated that the education of the student in the regular environment cannot be satisfactorily achieved even with the use of supplementary aids and services.

**Reporting Requirements:** By September 30, 2017, the District will provide the following to OCR:

- a) A list of all disabled students who were placed in self-contained settings at the beginning of school year 2016-2017;
- b) Documentation supporting that during each of these students' annual reviews during school year 2016-2017, the group ensured that these students had a current evaluation on file, were classified appropriately, and that the group followed the regulation implementing Section 504, at 34 C.F.R. § 104.34, in determining the appropriate educational setting for the student and documented that determination consistent with the requirements listed in Action Item I;
- c) If the group determined that a student was not classified appropriately, documentation demonstrating that the District made an appropriate classification;
- d) If the group determined that documentation did not support that a student was placed in the least restrictive environment, documentation demonstrating that the District changed the student's placement to the least restrictive environment and considered whether the student needed any compensatory and/or remedial services; and
- e) If the group determined that the student needed compensatory and/or remedial services, a copy of the plan for providing these services.

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. §§ 104.4(b)(1)(i)-(iv), 104.4(b)(3) and 104.34, and the ADA, at 28 C.F.R. §35.130, 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. §§ 104.4(b)(1)(i)-(iv), 104.4(b)(3) and 104.34, and the ADA, at 28 C.F.R. §35.130, which were at issue in this case. In addition, the District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including 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, including to enforce this agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

10/20/16

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Date

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Dr. Edwin M. Quezada, Superintendent  
Yonkers Public Schools