

RESOLUTION AGREEMENT

Buffalo Public Schools

Case No. 02-16-1014

In order to resolve Case No. 02-16-1014, Buffalo Public Schools (the District) assures the U.S. Department of Education, New York 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, 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.

Action Item 1:

By April 29, 2016, the District will convene a group of persons knowledgeable about the Student to determine whether the Student requires any compensatory services because he was not provided with an FM system between September 9 and November 1, 2015. The District will invite the complainant to attend this meeting. If the group of knowledgeable persons determines that the Student requires compensatory services, the group will develop a plan for providing such services, with a completion date for providing the services not to extend beyond June 30, 2016. The group will also discuss whether the Student had access to necessary electronic books (e-books) and/or books on CD during school years 2014-2015 and 2015-2016. If the group determines that the Student did not have such access, the group will determine whether the Student requires any compensatory services as a result; and if so, will develop a plan for providing such services, with a completion date for providing the services not to extend beyond June 30, 2016.

Reporting Requirements:

- a) By May 6, 2016, the District will submit to OCR a copy of the meeting minutes or similar documentation from the meeting(s) referred to in Action Item 1 above, including an explanation for decisions made regarding whether the Student had access to necessary electronic textbooks and/or books on CD during school years 2014-2015 and 2015-2016; an explanation for decisions made regarding compensatory services; and a description of and schedule for providing compensatory services, if any, to the Student. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34 and 104.35, in making these determinations.
- b) By July 15, 2016, if compensatory services are offered to the Student, the District will provide documentation to OCR demonstrating that it has provided the Student with the compensatory services. The documentation will include the dates, times, and locations of the services provided, a description of the services provided, and the name(s) of the service provider(s).

Action Item 2:

By May 16, 2016, the District will provide training to all District administrators and staff members at Middle Early College High School (the school) who are responsible for monitoring implementation of individual education programs (IEPs) and Section 504 plans at the school regarding the District's obligations under Section 504 to provide a free and appropriate public education to qualified disabled students, including but not limited to the responsibility to ensure that any aids and services that a CSE or Section 504 team deems necessary for a student pursuant to an IEP or Section 504 plan are provided to that student.

Reporting Requirement: By June 1, 2016, the District will provide documentation to OCR demonstrating that training was provided consistent with Action Item 2 above, including: (a) the name(s) and credentials of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; (d) copies of any training materials disseminated. If the District elects to have OCR provide the training required under Action Item 2, the District will provide OCR with a list of the individuals who attended the training and their positions. OCR will collect the remaining required documentation and the District will not be required to provide any additional documentation.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.33, and the ADA, at 28 C.F.R. §§ 35.130(a) and (b)(1)(iii), 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. § 104.33, and the ADA, at 28 C.F.R. §§ 35.130(a) and (b)(1)(iii), 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 a minimum of sixty (60) calendar days to cure the alleged breach.

/s/

Date

Dr. Kriner Cash
Superintendent
Buffalo Public Schools