

RESOLUTION AGREEMENT

Hamburg Central School District Case No. 02-21-1181

In order to resolve Case No. 02-21-1181, the Hamburg Central School District (the District) 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, and Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35.

This resolution agreement has been entered into voluntarily and does not constitute an admission of liability, non-compliance or wrongdoing by the District.

Action Item 1:

By November 30, 2021, the District will convene a meeting of the Committee on Special Education (CSE) for Student A to consider whether Student A requires any remedial and/or compensatory educational instruction, speech/language services, physical therapy or occupational therapy resulting from the reduction in services from September 2020 through February 25, 2021. The District will invite the Complainant to attend the meeting. If the CSE determines that Student A requires remedial or compensatory services, the District will develop a plan for providing the services, with a completion date for providing the services not to extend beyond June 30, 2022.

Reporting Requirements:

- a) By December 15, 2021, the District will submit documentation to OCR substantiating that a meeting was held consistent with Action Item 1 above, including documentation regarding the CSE's decision about whether the Student A requires remedial and/or compensatory educational instruction, speech/language services, physical therapy or occupational therapy; an explanation for the decisions made regarding whether Student A requires such services; a detailed description of the services to be provided, if any; the schedule for providing any such services; and, documentation demonstrating that the Complainant was invited to attend the meeting. 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. §§ 104.34, 104.35 and 104.36, in making these determinations.
- b) If applicable, by July 15, 2022, the District will provide documentation to OCR demonstrating that it has provided Student A with all remedial and/or compensatory educational instruction, speech/language services, physical therapy and occupational therapy. The documentation should include the dates, times, and locations that such services were provided, and the name(s) of the service provider(s).

Action Item 2:

By November 30, 2021, the District will convene a meeting of the CSE for Student B to consider whether the Student B requires any remedial and/or compensatory educational instruction, speech/language services, physical therapy or occupational therapy resulting from the reduction in services from September 2020 through March 11, 2021. The District will invite the Complainant to attend the meeting. If the CSE determines that Student B requires remedial or compensatory services, the District will develop a plan for providing the services, with a completion date for providing the services not to extend beyond June 30, 2022.

Reporting Requirements:

- a) By December 15, 2021, the District will submit documentation to OCR substantiating that a meeting was held consistent with Action Item 2 above, including documentation regarding the CSE's decision about whether Student B requires remedial and/or compensatory educational instruction, speech/language services, physical therapy or occupational therapy; an explanation for the decisions made regarding whether Student B requires such services; a detailed description of the services to be provided, if any; the schedule for providing any such services; and, documentation demonstrating that the Complainant was invited to attend the meeting. 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. §§ 104.34, 104.35 and 104.36, in making these determinations.
- b) If applicable, by July 15, 2022, the District will provide documentation to OCR demonstrating that it has provided Student B with all remedial and/or compensatory educational instruction, speech/language services, physical therapy and occupational therapy. The documentation should include the dates, times, and locations that such services were provided, and the name(s) of the service provider(s).

Action Item 3: Training

By December 15, 2021, the District will provide training to relevant staff members and administrators who were responsible for ensuring that the school district where Students A and B were placed was implementing their individualized education plans (IEPs), from September 2020 to February/March 2021. The training will address Section 504's requirements with respect to providing a free appropriate public education and ensuring the implementation of the provisions of IEPs deemed appropriate by a group of knowledgeable persons, such the CSE, including ensuring that students placed outside of the District receive a free appropriate public education.

Reporting Requirement: By December 30, 2021, the District will submit documentation to OCR demonstrating that the District provided training in accordance with Action Item 3 above, including the name(s) and credentials of the trainer(s); the date(s) of the training; a short summary of the material covered; copies of any training materials distributed; and, proof of attendance by relevant District staff.

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The District understands that by signing this resolution agreement (the 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 and obligations of this Agreement. Upon the District's satisfaction of the commitments made under this Agreement, OCR will close this case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Date: ___11/5/2021_____

Signed: _____/s/_____
Michael R. Cornell
Superintendent
Hamburg Central School District