

RESOLUTION AGREEMENT

Buffalo Public Schools Case No. 02-22-1424

In order to fully resolve Case No. 02-22-1424, Buffalo Public Schools assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the following actions to comply with 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, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1

By April 30, 2023, the District will reconvene a Committee on Special Education (CSE) meeting, to conduct the Student's annual review, including making a determination as to whether the Student requires XXXXX XXXXXX due to her disability. The District will invite the Complainant to attend this meeting and otherwise adhere to the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.35, and 104.36. To the extent further evaluation is necessary or required, the District will seek consent from the Complainant to conduct any evaluations necessary for the group of persons knowledgeable about the Student to determine the Student's eligibility for special education and related aids and services, and ensure that prior to the meeting, it will provide copies to the Complainant of any evaluations that have been completed prior to the date of this meeting.

Reporting Requirement: By May 31, 2023, the District will provide documentation to OCR demonstrating that it held a meeting to determine the Student's eligibility for special education and/or related aids and services, as described in Action Item 1. The documentation will include: (a) copies of any completed evaluations; (b) a copy of the meeting minutes or similar documentation from the meeting referenced in Action Item 1 above, including an explanation for decisions made and a copy of any Individualized Education Program (IEP) developed for the Student; and (c) documentation demonstrating that the District provided notice of and invited the Complainant to the meeting.

Action Item 2

By April 30, 2023, the District will issue a memorandum to District administrators and staff responsible for evaluating and making determinations regarding special education and/or related aids and services for students at XXXXX XXXXXX (the School), including the District's CSE and the School's principal, assistant principal, guidance counselor and special education teachers. The memorandum will cover the District's obligation to evaluate any student who, because of disability, needs or is believed to need special education and/or related services before taking any action with respect to the placement of the student in regular or special education and any subsequent significant change in educational placement. The memorandum will inform staff that in interpreting evaluation data and in making placement decisions, the District shall, in accordance with the regulation implementing Section 504, at 34 C.F.R. § 104.35(c), draw upon information from a variety of sources; establish procedures to ensure that information obtained from all such sources

is documented and carefully considered; ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student (such as students’ parents, whenever possible), the meaning of the evaluation data, and the placement options; and, ensure that the placement decision is made in conformity with 34 C.F.R. § 104.35, including by providing evaluation reports to parents prior to such meetings.

Reporting Requirement: By May 31, 2023, the District will provide documentation to OCR demonstrating that it issued the memorandum referred to above to all relevant District personnel.

OCR Monitoring

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.

The District understands that OCR will not close the monitoring of this resolution agreement until OCR determines that the District has demonstrated compliance with all the terms of this resolution agreement and is in compliance with Section 504 and its implementing regulation, at 34 C.F.R. Part 104, and Title II and its implementing regulation, at 34 C.F.R. Part 35, which were at issue in 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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the District’s representative below.

3/9/2023

Date

/s/

Authorized Representative
Buffalo Public Schools