

RESOLUTION AGREEMENT

Shenendehowa Central School District Case No. 02-23-1154

In order to resolve Case No. 02-23-1154, the Shenendehowa Central School District (the District) 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 (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 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35.

The District affirms that it cannot through contractual or other arrangements deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service enjoyed by others receiving the aid, benefit, or service; and/or provide significant assistance to any entity that discriminates against a District student on the bases of disability, pursuant to the regulations implementing Section 504, at 34 C.F.R. § 104.4(b)(1)(i), (v), and (vi) and Title II, at 28 C.F.R. § 35.130.

Action Item 1: Notice to Program and District Personnel

By July 31, 2023, the District will issue a letter to parents/guardians of students enrolled in the District's Universal Pre-Kindergarten Program (the Program), administrators and staff at each contracted provider in the Program, and District administrator and staff responsible for overseeing the District's implementation of the Program regarding the requirements of Section 504 and Title II, including that the Program (1) may not discriminate against students on the basis of disability; (2) may not exclude or limit the participation of students in the Program's activities on the basis of disability; (3) must make individualized determinations with regard to the evaluation, referral, and/or placement of students requiring special education and/or related aids and services; (4) must conduct appropriate evaluations prior to taking any action with respect to the initial placement of students in general or special education and any subsequent significant change in educational placement; and (5) must take into account the needs of students with disabilities on an individual basis in determining the aid, benefits, or services to be provided.

Reporting Requirement:

By August 15, 2023, the District will provide to OCR a copy of the letter it sent to parents/guardians of students enrolled in the Program, administrators and staff at each contracted provider, and District administrators and staff responsible for overseeing the implementation of the Program consistent with Action Item 1.

Action Item 2: Revised Policies and Procedures

By August 31, 2023, the District will revise the Program policies and procedures to provide a process for parents/guardians to request, and for Program staff to individually consider, the

provision of aids, benefits, and services to ensure that qualified individuals with disabilities have an equal opportunity to participate in the Program.

Reporting Requirement:

- (a) By August 15, 2023, the District will provide to OCR drafts of the revised policies and procedures, consistent with Action Item 2, for OCR's review and approval.
- (b) Within fifteen (15) calendar days of the District's receipt of OCR's approval of the revised policies and procedures, the District will provide documentation to OCR to demonstrate that it has formally adopted the OCR-approved policies and procedures; updated its relevant printed publications and on-line publications with the newly adopted policies and brochures (inserts may be used pending reprinting of these publications); and electronically disseminated the newly adopted policies and procedures to Program parents/guardians and administrators of each contracted provider. This documentation will include at a minimum (i) printouts or a link to all on-line publications containing the newly adopted policies and procedures; (ii) evidence of the electronic dissemination of the policies and procedures to Program parents/guardians and the administrators of each Provider; and (iii) if not yet finalized, copies of inserts for printed publications.

Action Item 3: Student Participation in the Center

In order to ensure that the District has not excluded students with disabilities and/or suspected of having disabilities from the Program, the District will provide information to OCR for school years 2022-2023 and 2023-2024 regarding: requests the District and/or its contracted providers received from or on behalf of Program participants for aid, benefits, and services to meet the needs of students with disabilities and/or suspected of having disabilities; (2) participants in the Program who were referred for evaluations to determine their need for accommodations, special education, and/or related aids and services; and (3) participants who were discharged from the Program.

Reporting Requirement:

- (a) By September 15, 2023, and again by August 15, 2024, the District will provide to OCR the following information for school years 2022-2023 and 2023-2024:
 - (i) A list of Program participants (identifying the participant's disability status and classification(s), if applicable) and enrollment status;
 - (ii) A list of requests the District and/or the contracted providers received and/or implemented for Program participants regarding aids, benefits, and services to meet the needs of students with disabilities and/or suspected of having disabilities; and the District's and/or contracted provider's response to the requests;

- (iii) A list of Program participants referred for evaluations to determine their need for accommodation plans, special education and/or related aids and services, and whether each participant was determined eligible to receive such accommodations, plans and/or services;
- (iv) A list of students who were selected through the District's lottery to enroll in the Program but were not assigned to a Program site (including the student's disability status and classifications, if applicable), along with the following information for each student:
 - (a) the date on which the student was selected through the District's lottery to enroll in the Program;
 - (b) the reason(s) the student was not assigned to a Program site, including any applicable District/contracted provider policies and/or procedures relied upon in making the decision; and
 - (c) copies of all related documentation, including correspondence between District/contracted provider staff and the student's parent/legal guardian and/or among District/contracted provider staff regarding the District's not assigning the Student to a Program site, policies or procedures, emails, memoranda, reports, notes, logs, forms, and/or meeting minutes.
- (v) A list of Program participants who were discharged from the Program (including the participant's disability status and classifications, if applicable) along with the following information for each participant:
 - (a) the date on which the student was discharged from the Program;
 - (b) the reason(s) for the participant's discharge, including any applicable District/provider policies and/or procedures relied upon in making the decision; and
 - (c) copies of all related documentation, including correspondence between District/contracted provider staff and the student's parent/legal guardian and/or among District/contracted provider staff regarding the student's discharge from the Program, policies or procedures, emails, memoranda, reports, notes, logs, forms, and/or meeting minutes.

Action Item 4: Training

- (a) By September 30, 2023, the District will provide training to administrators and staff at each contracted provider, and District staff who oversee the District's implementation of the Program, regarding the requirements of Section 504, at 34 C.F.R. §104.38 and 104.4(b)(1)(i), (v), and (vi); and Title II, at 28 C.F.R. § 35.130(b)(1)(ii), (iv) and (vii), including that:

- (i) the District may not, on the basis of disability, exclude qualified individuals with disabilities from the program or activity; must take into account the needs of such persons in determining the aid, benefits, or services to be provided; and
 - (ii) the District may not through contractual or other arrangements deny a qualified individual with a disability the opportunity to participate or benefit from the aid, benefit, or service enjoyed by others receiving the aid, benefit, or service; and/or
 - (iii) the District may not aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity.
- (b) By October 31, 2023, the District will also ensure that all contracted provider staff and administrators, and District administrators and staff responsible for implementation of the Program, receive training regarding the District's obligations under Section 504 and Title II, including the District's obligation to make individualized determinations with regard to the evaluation, referral, and/or placement of students requiring special education and/or related aids and services; to conduct appropriate evaluations prior to taking any action with respect to the initial placement of students in general or special education and any subsequent significant change in educational placement; and not to exclude qualified students with disabilities from the Program on the basis of disability; and to take into account the needs of students with disabilities on an individual basis in determining the aid, benefits, or services to be provided.

Reporting Requirement:

By November 15, 2023, the District will submit documentation to OCR demonstrating that it provided trainings in accordance with Action Item 4 above, including the name(s) and credentials of the trainer(s); the date(s) of the training(s); a short summary of the material covered; copies of any training materials distributed; and proof of attendance by relevant contracted provider and District staff.

By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the 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 Agreement until OCR determines that the District has demonstrated compliance with all the terms of this 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 28 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.

6/28/23
Date

/s/
Authorized Representative
Shenendehowa Central School District