

Voluntary Resolution Agreement
Montgomery County Public Schools (MD)
OCR Docket Number: 03151242

To resolve the allegations in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), Montgomery County Public Schools (the District) voluntarily enters into this Resolution Agreement (the Agreement) and commits to implement the provisions set forth in this Agreement to ensure compliance 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; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35; and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000(d), and its implementing regulation, 34 C.F.R. Part 100.

This Agreement does not constitute an admission of liability by the District, nor does it constitute a determination by OCR that the District violated any of the regulations enforced by OCR.

Review of Policies and Training

Action Step 1

The District shall review its Regulation JGA-RA, *Classroom Management and Student Behavior Interventions*, to ensure it is consistent with the principles for restraint and seclusion in the U.S. Department of Education's 2012 Restraint and Seclusion Resource Document and Maryland State law. The District agrees to make any revisions to Regulation JGA-RA, as appropriate. The District will provide a report to OCR indicating whether the District's regulation is consistent with Maryland State law, and the 2012 Restraint and Seclusion Resource Document along with any proposed revisions to Regulation JGA-RA.

If there are revisions to the District's Regulation JGA-RA, the District will officially adopt any revisions after obtaining OCR's approval, and communicate regarding the changes by posting the revised regulation on its website and using its standard methods for disseminating new information to employees, including administrators, teachers, and staff.

Reporting Requirement: By December 15, 2016, the District will submit to OCR for its review and approval its report pursuant to Action Step 1, along with any proposed revisions to Regulation JGA-RA. If there are no revisions determined to be necessary to the District's Regulation JGA-RA, the District will have no further obligations under Action Step 1.

Reporting Requirement: If there are revisions to the District's Regulation JGA-RA, within 60 days of obtaining OCR's approval of the revised Regulation JGA-RA, the District will provide OCR with documentation showing that it has been adopted as the official regulation of the District, and published on the District's website. The District shall also submit to OCR an explanation of the manner in which it was distributed.

Action Step 2

The District shall provide training to staff at XXXXXX on its procedures for communicating with parents/guardians who do not speak English as their primary language in order to ensure that parents are notified in a language they can understand, of school sponsored activities, all registration materials, and other information and matters pertinent to the education of their children.

Reporting Requirement: By February 1, 2017, the District shall submit to OCR an explanation of the content of the training provided, a list of who attended, and when the training was conducted.

FAPE and Anti-Discrimination Responsibilities

Action Step 3

The District recognizes and affirms its responsibility to provide a Free Appropriate Public Education (FAPE) to each qualified student with a disability and to fully implement the educational programs of students with disabilities, including all of the provisions in their Individualized Education Programs (IEPs). The District confirms that it complies with the following provisions of the Section 504 implementing regulations:

34 C.F.R. § 104.33 (a), requiring school districts to provide a free appropriate public education (FAPE) to each qualified student with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the student's disability and 34 C.F.R. §104.33 (b)(1), defining an appropriate education as the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36.

The District shall provide copies of its Section 504 manual, which contains the above language, to XXXXXX administrators and staff involved in the provision of services to students with disabilities. A copy will also be made available to MCPS Director of Special Education and all Special Education Supervisors at the District level.

Reporting Requirement: A copy of the current version of the Section 504 manual will be provided to OCR at the time of the signing of this agreement, and by February 1, 2017, the District shall submit to OCR the names and titles of the persons who received the manual, and an explanation of the manner in which it was distributed.

Action Step 4

The District acknowledges its obligations under the Title VI regulation at 34 C.F.R. § 100.3 to ensure that no person, on the basis of race, color or national origin, is excluded from

participation in, denied the benefits of, or otherwise subjected to discrimination in any District program or activity or treated differently on the basis of race, color or national origin. The District affirms to OCR that it does not treat students differently with respect to the administration of discipline or other actions that are taken in response to a student's behaviors or conduct, unless such treatment is warranted pursuant to the student's Functional Behavior Assessment/Behavior Intervention Plan, Section 504 Plan or IEP, as applicable. The District shall issue a memorandum containing the language and disseminate it to all administrators and staff at the XXXXXX.

Reporting Requirement: By February 1, 2017, the District shall submit to OCR a copy of the memorandum required under Action Step 4, a list of the names and titles of the persons who received the memorandum, an explanation of the manner in which it was distributed and the date it was disseminated.

XXXXXX

xx – paragraphs redacted – xx

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the District understands that during the monitoring of this Agreement, 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, the ADA, and Title VI, which were at issue in this complaint.

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, the ADA, and Title VI, which were at issue in this complaint; specifically, 34 C.F.R. § 104.33, 34 C.F.R. § 104.4 and 34 C.F.R. 100.3(a), (b)

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/

Superintendent or Designee
Montgomery County Public Schools

11/1/16

Date