

Voluntary Resolution Agreement
Kanawha County Schools
OCR Case Number 03-15-1259

In order to resolve the allegations in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), under 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35, the Kanawha County Schools (District) enters into this voluntary agreement with OCR.

This Agreement does not constitute an admission of liability on the part of the District and does not constitute a determination by OCR of any violation of Section 504, Title II, or their implementing regulations by the District.

Action Steps – Policies and Procedures

1. By April 1, 2016, the District will issue a statement to all District students, parents and staff, by letter or email, or by publishing in the school newsletter, and that will also be posted in prominent locations at all of its schools and published on the District's website, stating that the District does not tolerate acts of harassment, including acts of harassment based on disability. The statement will note the District's commitment to conducting a prompt investigation and will encourage any individual who believes he or she has been subjected to harassment or a hostile environment based on disability to report the harassment or hostile environment to the District. The statement will include the appropriate contact information for the designated staff member to whom individuals may report allegations of harassment and/or discrimination. The statement will warn that individuals found to have engaged in acts of harassment or other acts that create a hostile environment based on disability will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension, expulsion or termination. The statement will encourage students, parents and District administrators and staff to work together to prevent acts of harassment of any kind.

Reporting Requirement: By May 1, 2016, the District will provide a copy of its disability harassment statement under Action Step 1 to OCR. It will describe the dates and methods of its publication and provide copies of its notice as applicable.

2. By March 1, 2016, the District will review and revise its existing formal and informal policies and procedures that address discrimination on the basis of disability, including disability harassment. The District's disability discrimination policies and procedures will provide, at a minimum:
 - notice to students and employees of the procedure, including how and where to file a complaint;

- application of the procedure to complaints alleging disability discrimination carried out by employees, other students, or third parties;
- adequate, reliable, and impartial investigation, including the opportunity to present witnesses and other evidence;
- designated and reasonably prompt timeframes for the major stages of the informal and formal complaint process;
- written notice to the parties utilizing either the formal or informal complaint process of the outcome of the complaint; and
- an assurance that the District will take steps to prevent the recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Reporting Requirements: By April 1, 2016, the District will provide OCR with a draft of its revised or developed policies and procedures identified in Action Step 2 of this Agreement for OCR’s review and approval.

Action Step - Publication

3. Once approved by OCR, within 60 days the District will publish its policies and procedures identified in Action Step 2 of this Agreement in the District’s 2016-2017 Student Handbook and post them on the District’s website. The District will also provide a copy of the amended policies and procedures to all District administrators and staff, including bus drivers.

Reporting Requirement: Within thirty days of publication, the District will provide documentation to OCR demonstrating its compliance with Action Step 3 of this Agreement by submitting a copy of the Student Handbook containing the revised policies and procedures. The District will also provide OCR with the website address for the electronically updated policies and procedures.

Action Steps - Investigation and Remedial Actions

4. XXXXXXXXXXXX – Paragraph Deleted.
5. XXXXXXXXXXXX- Paragraph Deleted.
6. XXXXXXXXXXXX- Paragraph Deleted.

Reporting Requirements:

- XXXXXXXXXXXX- Paragraph Deleted.
- XXXXXXXXXXXX- Paragraph Deleted.

Action Step – Training

7. By December 1, 2016, the District will provide training to all administrators and staff, including its XXXXXXXXXXXX, on the subject of disability harassment which may be accomplished through the District's on-line training program. Person(s) knowledgeable about the laws and issues pertaining to disability harassment will provide the training. The training will include:

- a review of the District's responsibilities under Section 504 and Title II, pertaining to ensuring equal educational opportunities for all students, including students with disabilities, and prohibiting disability discrimination, including disability harassment;
- an explanation of what conduct constitutes disability harassment, including harassment involving demeaning jokes, taunting, and derogatory remarks or physical acts relating to an individual's disability;
- a review of the revised and/or adopted District policies and procedures regarding disability discrimination;
- information regarding the appropriate implementation of the revised and/or adopted policies and procedures, including each employee's responsibility to refrain from and report disability harassment; and
- techniques to address disability harassment.

Reporting Requirement: By January 1, 2017, the District will provide documentation to OCR demonstrating its compliance with Action Step 7 of this Agreement by submitting an outline of the training, a copy of the materials disseminated at the training, the name(s), title(s), and credentials of the individual(s) who conducted the training and a copy of the sign-in sheet (containing the attendees' names, signatures and title).

The District 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 and Title II that were at issue in this case, under 34 C.F.R. §§ 104.4(a), (b)(1)(i) and 28 C.F.R. §§ 35.130(a), (b)(1)(i).

The District also 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 and Title II that 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 sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Superintendent and/or Designee
Kanawha County Schools

_____/1/7/16_____
Date