

RESOLUTION AGREEMENT

Pittston Area School District OCR Case No. 03-16-1202

OCR and the Pittston Area School District (the District) enter into this Resolution Agreement (Agreement) to resolve the above-referenced complaint. The District submits this Agreement to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation, at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (ADA), and its implementing regulation at 28 C.F.R. Part 35 which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

ACTION STEPS AND REPORTING REQUIREMENTS

Memorandum to all District Staff

1. Within 30 days of signing this Agreement, the District shall distribute a memorandum to all District staff reminding them of their obligations under Section 504 to provide a free appropriate public education (FAPE) to each qualified individual with a disability within its jurisdiction. The provision of an appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons are met and adhere to the procedural requirements of Section 504 with regard to evaluation and placement. The memo specifically will remind staff of the District's responsibilities to:
 - a) evaluate any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement; and
 - b) ensure that when interpreting evaluation data and making placement decisions, the District:
 - i. will draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
 - ii. establish procedures to ensure that information obtained from all such sources is documented and carefully considered; and
 - iii. ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options

In addition, the memorandum will remind staff of the following:

- c) District staff members are prohibited from retaliating against any individual who engages in a protected activity, including, but not limited to advocating for students with disabilities or participating in a grievance or complaint process alleging disability discrimination.

Reporting Requirement

Within 45 days of signing this agreement, the District shall submit to OCR a copy of the memorandum distributed to all staff per Action Step 1, including a list of the names and titles of the persons who received the memorandum, and an explanation of the manner in which it was distributed, including the date.

XXXXXX

2. XX – paragraphs redacted – XX
3. XX – paragraphs redacted – XX

Notice of Non-Discrimination

4. Within 30 days of signing this Agreement, the School shall revise its Notice of Nondiscrimination to include discrimination based on disability. The District will submit to OCR for its review and approval a non-discrimination statement that meets the requirements of Section 504 and its implementing regulation at 34 C.F.R. § 104.8., and Title II of the ADA, at 28 C.F.R. § 35.106, and notifies the public that the District does not discriminate on the basis of disability. The School may consult with OCR for technical assistance in drafting or revising its notice of nondiscrimination, and may refer to OCR's policy guidance entitled Notice of Non-Discrimination, that includes a sample combined notice of nondiscrimination.¹

Reporting Requirement

Within 45 days from the signing of this Agreement, the District will submit to OCR for its review and approval a copy of its draft non-discrimination statement referenced in Action Step 3.

5. Within 45 calendar days of written notification from OCR that the revised non-discrimination statement developed in accordance with Action Step 4 above is consistent with the requirements of Section 504 and Title II, the District will adopt and implement the approved non-discrimination statement. The District shall publish and prominently display its revised notice of nondiscrimination in an easily visible location in electronic and printed

¹ OCR's guidance entitled *Notice of Non-Discrimination* can be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>.

publications including, but not limited to: a) bulletins; b) catalogs; c) student, faculty, and employee handbooks and/or manuals; d) student codes of conduct; e) the District website; g) and any other additional means of notification the District deems effective to ensure that the information is widely disseminated.

Reporting Requirement

Within 60 days of written approval from OCR of the revised non-discrimination statement, the District will submit to OCR documentation substantiating that it printed the non-discrimination notice in each school's and/or District's newsletter, posted it in prominent locations at the District's schools and published it on the District's website.

Grievance Procedures

6. Within 60 days of signing this agreement, the District will submit to OCR for its review and approval draft grievance procedures to address complaints of disability discrimination filed under Section 504, and its implementing regulation at 34 C.F.R. § 104.7(b), and Title II of the ADA, at 28 C.F.R. § 35.107.

The grievance procedures will identify the Coordinator(s) at the District responsible for coordinating the District's compliance with Section 504 and Title II. The District will ensure that these procedures provide for the prompt and equitable resolution of complaints alleging disability discrimination and will include, at a minimum, the following:

- a. notice to students, parents, and employees of the procedure, including how and where to file a complaint;
 - a. the name or title, office address, and telephone number of the individual with whom to file a complaint;
 - b. application of the procedure to complaints alleging disability discrimination carried out by other students, employees, or third parties;
 - c. adequate, reliable, and impartial investigation, including the opportunity for both parties to present witnesses and other evidence;
 - d. designated and reasonably prompt timeframes for the major stages of the complaint process;
 - e. notice to the parties of the findings resulting from the complaint; and
 - f. an assurance that the District will take steps to prevent the recurrence of any discrimination and to correct its discriminatory effects on the complainant and others, if appropriate.
7. Within 45 calendar days of written approval from OCR that the District's disability discrimination grievance procedures are consistent with the requirements of Section 504 and the ADA, the District will adopt and implement the procedures and will provide all students, parents/guardians and employees with written notice regarding the new procedures for addressing and resolving complaints alleging disability discrimination

together with information on how to obtain a copy of the procedures. The District, at a minimum, will make this notification through its website, electronic mail messages to employees and students, and any regularly issued newsletters (in print or online), as well as by any other additional means of notification the District deems effective to ensure that the information is widely disseminated.

Reporting Requirement

Within 60 calendar days of written approval from OCR that the revised disability grievance procedures referenced in Action Step #6 are consistent with Section 504 and the ADA, the District will provide OCR with documentation that it has implemented Action Step #7 above, including copies of the written notices issued to students and employees regarding the revised disability grievance procedures and a description of how the notices were distributed; copies of its revised student and employee handbooks; and a link to its webpage where the revised disability grievance procedures are located.

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, if necessary, may visit the District, interview staff and students, and request such additional reports or data for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. §§ 104.4(a) and (b), 104.7(b), 104.8, 104.33, 104.34, 104.35, 104.36 and 104.61, and Title II of the ADA at 28 C.F.R. §§ 35.130, 35.106, 35.107, and 35.134 which were at issue in this complaint. Upon completion of the obligations under this Agreement, OCR shall close 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.

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

/s/

Superintendent or Designee

10/24/2017

Date

/s/

U.S. Department of Education, OCR Philadelphia Office Director

1/3/2018

Date