

RESOLUTION AGREEMENT
Elk Lake School District
OCR Case No. 03-16-1287

The U.S. Department of Education, Office for Civil Rights (OCR) and the Elk Lake School District (the District) enter into this Agreement (Agreement) to resolve the allegations in the above-referenced complaint. This Agreement does not constitute an admission of liability by the District. The District assures OCR that it will take the following actions to comply 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 (Title II) and its implementing regulation at 28 C.F.R. Part 35.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

Provision of a Free Appropriate Public Education

1. The District acknowledges its obligation to provide a free appropriate public education (FAPE) to qualified students with disabilities, as well as a system of procedural safeguards that includes an opportunity for parents/guardians to examine relevant records, in accordance with Section 504 and its implementing regulation, at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36.

Compensatory Education

2. Within 15 days of signing this agreement, the District will invite the Complainant, in writing via certified mail, to attend a meeting with a team of persons knowledgeable about the Student to determine whether the Student suffered an educational loss during the 2015-2016 school year. Specifically, the group shall consider whether the Student did not receive services required by his Section 504 Plan.
3. Within 30 days of sending the written invitation to the Complainant, required by Action Step 2, the District will convene a team of persons knowledgeable about the Student to determine whether the Student suffered an educational loss during the 2015-2016 school year. Specifically, the group shall consider whether the Student did not receive services required by his Section 504 Plan. The District will conduct the meeting in accordance with the Section 504 procedural requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards). The District will ensure that accurate meeting minutes are kept to document this meeting, including all team members present at the meeting and all documenting information considered from all sources and all decisions made by the team.

4. Within fifteen (15) calendar days after the meeting required by Action Step 3, the District will provide the Complainant with written notice, by certified mail, of the outcome of the meeting regarding the determination as to whether the Student suffered an educational loss in the 2015-16 school year and thus, requires compensatory education. The District will inform the Complainant of the applicable procedural safeguards, in accordance with the requirements of 34 C.F.R. § 104.36. If it is determined that educational loss occurred and compensatory education or other remedial educational services will be provided, the written notice will provide a description of the compensatory and/or remedial educational services to be provided, the amount of services, where and when the services will be provided, including the appropriate beginning and ending dates for the services, and any transportation that will be provided to the Student in conjunction with these services. The education or services shall be delivered in a manner so as not to hinder the delivery of any services that are required by the Student's current educational program. If the team determines that no educational loss occurred, the District will provide an explanation of its decision, including the basis for its decision, along with a notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirement:

Within 30 days of convening the placement team, the District will provide the following information to OCR regarding Action Steps 2-4:

- a. the written invitation sent to the Complainant;
- b. a list of meeting attendees;
- c. a copy of the meeting minutes, along with documentation considered by the team;
- d. a written explanation of all decisions made, including the team's decisions as to whether the Student suffered an educational loss and whether the Student requires compensatory and/or remedial educational services;
- e. a description of and schedule for providing compensatory and/or remedial services, if any, to the Student; and
- f. the notice of procedural safeguards provided to the Complainant.

OCR will review the documentation submitted to ensure that the District met the procedural and other requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35, 104.36, in making these determinations.

Evaluation of the Student and Placement if the Student Re-enrolls

5. Within 30 days of signing this Agreement, the District will send a letter to the Complainant, stating that if the Complainant re-enrolls the Student into a school operated by the District during the 2018-19 school year, during a time in which the Student is still deemed a "Qualified Individual with a disability" as defined under Section 504 and its implementing regulation at 34 C.F.R. § 104.3(l)(2), the District will seek parental permission to timely re-evaluate the Student per the requirements of 34 C.F.R. §§ 104.33, 104.35 and 104.36.

While this evaluation is pending, or if the parent declines to give permission to evaluate, the District will implement the Student's most recently agreed upon education plan to provide disability-related services. The District will provide copies of such plans and a memorandum with instructions to all of the Student's teachers, informing them that the plan and all services described therein must be implemented immediately. The District will provide a copy of the memorandum sent to staff, including all attachments, to the Complainant by regular mail.

6. If the Complainant re-enrolls the Student within-the District prior to the end of the 2018-2019 school year, The District will:
 - a. Seek permission to re-evaluate the Student, and if granted, re-evaluate the Student per the requirements of 34 C.F.R. §§ 104.33, 104.35 and 104.36;
 - b. Within 30 days of completing the evaluation, the District will convene a meeting of persons knowledgeable about the Student in accordance with the Section 504 procedural requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards). The District will invite the Complainant, in writing via certified mail, to attend the meeting, at least fifteen (15) days in advance of the meeting, unless the Complainant agrees to waive this requirement. The District will ensure that accurate meeting minutes are kept to document this meeting, including all team members present at the meeting and all documenting information considered from all sources and all decisions made by the team.
 - c. Within fifteen (15) calendar days after the meeting, the District will provide the Complainant with written notice, by certified mail, of the outcome of the meeting regarding the Student's current placement. The District will inform the Complainant of the applicable procedural safeguards, in accordance with the requirements of 34 C.F.R. § 104.36.

Reporting Requirement:

- a. Within 14 days of completing Action Step 5, the District will submit a copy of the letter sent to the Complainant offering to enroll the Student and implement a disability related plan for the student.
- b. If the Student re-enrolls within the District prior to the close of the 2018-19 school year, then within 21 days of completing Action Steps 6(a) through (c), the District will submit to OCR documentation showing that it fulfilled the requirements of Action Step 6(a) through (c). Specifically, the District will provide:
 - The written invitation sent to the Complainant.
 - The evaluation data (if the Complainant consents to evaluation).

- A list of meeting attendees.
- A copy of the meeting minutes, along with documentation considered by the team.
- A record of the Team’s discussion of the meaning of the evaluation data (if an evaluation is conducted), and the placement options, to determine the appropriate placement for the Student, including related aids and services. In interpreting the evaluation data and in making the placement decision, the District will ensure that the team adheres to the requirements set forth in the Section 504 regulation at 34 C.F.R. § 104.35.
- The notice of procedural safeguards provided to the Complainant.

OCR will review the documentation submitted to ensure that the District met the procedural and other requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35, 104.36, in making these determinations.

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 regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.35, and 104.36, and Title II, at 28 C.F.R. §§ 35.130. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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/

8/24/18

Superintendent or Designee

Date