

VOLUNTARY RESOLUTION AGREEMENT
Cabell County Public Schools
OCR Complaint #03161315

In order to resolve the above-referenced complaint filed with the United States Department of Education, Office for Civil Rights (OCR), under 504 of the Rehabilitation Act of 1973, at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990, at 28 C.F.R. Part 35 (Title II), and their implementing regulations, Cabell County Public Schools (the District) voluntarily enters into this Resolution Agreement (Agreement) and makes the following commitments to 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 any of the regulations enforced by OCR.

Action Steps

1. The District warrants to OCR that it will ensure compliance with the Section 504 regulation at 34 C.F.R. Section 104.21 and the Title II regulation at 28 C.F.R. Section 35.149, providing that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity operated by the recipient.
2. By April 1, 2017, the District will review its playground facilities at the Altizer Elementary School, Guyandotte Elementary School and Nichols Elementary School (the Schools) and develop a written plan (Plan) identifying the modifications, as applicable, that are necessary to ensure that the playground facilities are accessible to and usable by persons with mobility impairments in accordance with Section 504 and Title II and the 2010 ADA Standards for Accessible Design (2010 ADA Standards); specifically, provisions 240 and 1008 which apply to play areas. As part of this process, the District will consult with appropriate professionals knowledgeable about accessible playground settings to assist it in complying with the relevant provisions under the 2010 ADA Standards. The Plan will include a timetable for completion of all identified modifications with a time period not to exceed December 31, 2018. The Plan will be subject to OCR's review and approval and will address the following elements:
 - a. Provides an accessible route from the Schools to the playground settings, as well as accessible routes that connect and surround accessible activities within the playground settings;
 - b. Provides for ground surfaces along accessible routes, clear floor or ground spaces, and maneuvering spaces within play areas that are stable, firm and slip-resistant; changes in level between 1/4 " and 1/2 " shall be beveled;
 - c. Modification of existing playground equipment, or installation of additional equipment, as necessary, to ensure that an equivalent range of different types of play activities are accessible to children with mobility impairments;
 - d. Ensures that students with mobility impairments can access at least one type of each play experience available to students without disabilities (e.g. climbing, sliding, swinging, and crawling);

- e. Explains the specific ground level and elevated play activities which will be made accessible upon implementation. Ground level play activities included in the Plan will be set at a height useable by children with various disabilities, including those who use wheelchairs. Elevated play activities included in the Plan will be connected to the playground surface through an appropriate ramp or transfer system;
- f. Ensures that ground level play components accessed by children with mobility impairments are dispersed throughout the play area and integrated with other play components;
- g. Provides that ground surfaces shall be inspected and maintained regularly and frequently to ensure continued compliance with applicable accessibility standards; and,
- h. During the planning and implementation period, the District will provide individualized assistance, as needed, to students with mobility impairments enrolled at the Schools so that they may participate in a range of activities in the existing play setting.

Reporting Requirements:

- 1. By April 1, 2017, the District will provide OCR with a copy of the Plan developed as a result of its review of the Schools' playground facilities pursuant to Action Step 1, for OCR's review and approval.
- 2. Following OCR's approval of the plan, the District will provide OCR with progress reports by December 31, 2017 and August 1, 2018 regarding the implementation of this Agreement, including the completion of any renovations or modifications, as applicable. These reports will include a description of the work performed, along with photographs (with dimensions, as applicable) and copies of any invoices or work orders. The District will continue to provide OCR with progress reports until the Agreement has been fully implemented and any work to be done under the Agreement has been completed.
- 3. On or before December 31, 2018, upon completion of all work and modifications under the Agreement, the District will make the Schools' playground facilities available for OCR to conduct an onsite inspection to ensure that the District is in compliance with this Agreement.

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 at 34 C.F.R. §§ 104.21- 104.23, and the regulations implementing Title II, at 28 C.F.R. §§ 35.149-35.151, which were at issue in this complaint.

The District understands that OCR will not close the monitoring of this Agreement until it determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.21- 104.23, and the regulations implementing Title II, at 28 C.F.R. §§ 35.149-35.151, which were at issue in this complaint.

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/

1-30-17

Superintendent and/or Designee
Cabell County Public Schools

Date