

RESOLUTION AGREEMENT
Calhoun County Schools
OCR Case No. 03-17-1069

Calhoun County Schools (the District) voluntarily enters into this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 03-17-1069 and makes the following commitments to OCR. 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 (Title II), and its implementing regulation at 28 C.F.R. Part 35. This Agreement does not constitute an admission by the District of a violation of Section 504, Title II, or any other law enforced by OCR.

DEFINITIONS AND ACKNOWLEDGEMENTS

Disability harassment is intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the institution's program. Harassing conduct may take many forms, including verbal acts and name-calling, as well as nonverbal behavior, such as graphic and written statements, or conduct that is physically threatening, harmful, or humiliating.

The District acknowledges its obligation to provide a free appropriate public education (FAPE) to each qualified individual with a disability within its jurisdiction, regardless of the nature or severity of the individual's disability in accordance with Section 504 at 34 C.F.R. § 104.33, and Title II at 28 C.F.R. § 35.130. In addition, the District recognizes its obligations under Section 504 at 34 C.F.R. § 104.33 to fully implement education programs (including Individualized Education Programs and Section 504 Plans) for students with disabilities.

ACTION STEPS AND REPORTING REQUIREMENTS

Anti-Harassment/Anti-Retaliation Statement

1. Within 14 days of the signing of this Agreement, the District will issue a memorandum to all staff at the XXXXXX (the School) stating that the District does not tolerate acts of discrimination or harassment or bullying based on disability. The statement will also state that retaliation against individuals who make complaints about disability discrimination, or participate in the investigation of such complaints, is prohibited.

Reporting Requirement: By July 15, 2017, the District will submit to OCR a copy of the memorandum issued in accordance with Action Step #1 and the distribution list indicating the staff who received the memorandum.

Grievance Procedures

2. By July 15, 2017, in consultation with OCR, the District will develop and/or revise grievance procedures to ensure that they incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any prohibited actions under Section 504, in accordance with 34 C.F.R. § 104.7(b), and Title II of the ADA at 28 C.F.R. § 35.107(b). As part of this process, the District will develop or review and revise, as necessary, all complaint procedures that can be used for filing disability discrimination complaints to ensure that there is a clear and consistent process. The District will clarify the complaint process options for students pursuing disability discrimination, including harassment and bullying, complaints. The District will ensure that its Section 504 and Title II grievance procedures will contain, at a minimum, the following elements:
 - a. notice to students, parents, and employees of the procedure, including how and where to file a complaint;
 - b. application of the procedure to complaints alleging disability and discrimination, including harassment, carried out by students, employees, or third parties;
 - c. adequate, reliable, and impartial investigation, including the opportunity for the 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 outcome of the complaint, and the basis for the decision; and
 - f. an assurance that the District will take steps to prevent the recurrence of any prohibited actions and to correct its discriminatory effects on the complainant and others, if appropriate.

Reporting Requirement: By July 15, 2017, the District will provide OCR with a copy of its proposed/revised grievance procedures for OCR's review and approval, in accordance with Action Step #2 above.

3. Within 45 calendar days after OCR's approval of the grievance procedures, the District will provide OCR with documentation that it has implemented the procedures, including copies of the written notices issued to students and employees regarding the new procedures and a description of how the notices were distributed; copies of its revised student and employee handbooks and any other publications where these procedures are published; and a link to its webpage where the revised procedures are located.

Reporting Requirement: Within 60 calendar days of OCR’s approval of the disability discrimination grievance procedures, the District will provide OCR with documentation demonstrating that it has implemented Action Steps #2 and #3 of the Agreement, including copies of the written notices issued to students, parents and employees regarding the new Section 504/ADA 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 policy is located.

Anti-Harassment/Bullying Policy

4. By July 15, 2017, the District shall review, and revise if necessary, its anti-harassment and bullying policies to make certain such policies and procedures include disability harassment, including a definition and examples. The District will ensure that the procedures explain the District’s obligation to take immediate and appropriate steps to investigate harassment which is reported to it or of which it has notice or otherwise determine what occurred, take prompt and effective steps reasonably calculated to end any harassment and prevent the harassment from occurring again, and take actions to eliminate a hostile environment if one has been created. If a disabled student has been harassed or bullied on any basis, the District will make a determination of whether, due to the harassment, the Student’s needs have changed such that the Student is no longer receiving a FAPE.

Recognizing that neither Section 504 nor the ADA requires a separate disability harassment complaint procedure, the District assures OCR that if it chooses to maintain a separate harassment complaint procedure, it will comply with the requirements outlined in Action Step #2 above.

Reporting Requirement: Within 45 days of signing this Agreement, the District will submit to OCR a copy of the District’ s revised bullying and harassment policy for OCR’ s review and approval.

5. Within 45 days of written approval from OCR that the revised bullying and harassment policy meets the requirements of Action Step #5, the District will provide all students, parents/guardians and employees with written notice regarding the updated policy and procedures together with information on how to obtain a copy of the policy and procedures. The District, at a minimum, will make this notification through the District’ s 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 of the revised bullying/harassment policy, the District will provide OCR with documentation that it has implemented Action Step #6 above, including copies of the written notices issued to students

and employees regarding the updated bullying/harassment policy, 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 bullying/harassment policy is located.

6. Within 45 days of signing this Agreement, the District will issue a statement to all students, parents and staff that will be printed in each school's and/or District's newsletter, posted in prominent locations at the District, and published on the District's website, stating that the District does not tolerate disability harassment. The statement will encourage any student who believes he or she has been subjected to disability harassment to report the harassment to the District, and will note the District's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated staff member to whom students and parents may report allegations of harassment pursuant to 28 C.F.R. § 35.107(a) and 34 C.F.R. § 104.7(a). The statement will warn that students found to have engaged in disability harassment will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension or expulsion. The statement will further make clear that District staff and faculty found to have engaged in disability harassment will be promptly disciplined, and that such discipline may include, if circumstances warrant, termination of employment. The statement will encourage students and District staff and faculty to work together to prevent disability harassment.

Reporting Requirement: Within 60 days of signing this Agreement, the District will submit to OCR documentation substantiating that it printed the anti-harassment statement in each school's and/or District's newsletter, posted it in prominent locations at the District schools and published it on the District's website.

Training

7. Within 60 days of OCR's approval of the District's revised bullying and harassment policy and the District's Section 504/ADA grievance procedures, the District will provide training to staff and administrators reminding them that Section 504 and Title II prohibit discrimination on the basis of disability, including harassment based on disability. The training will include a discussion of what constitutes harassment on the basis of disability, the impact it has on individual students and the educational environment, the prohibition of all forms of harassment in the educational setting, examples of prohibited conduct, the importance of reporting harassment, how and to whom to report incidents of harassment, the District's obligation to respond appropriately to notice of harassment, and potential consequences and corrective action if harassment is found. The training will specifically address the responsibility of staff to report incidents of possible disability harassment or complaints of disability harassment of which they become aware and the procedures for doing so, and provide instruction on how to recognize, take steps reasonably designed to prevent and respond appropriately to harassment, including disability harassment.

Reporting Requirement: Within 45 days after the completion of the training required in Action Step 7, the District will provide OCR with documentation that it provided the training in accordance with Action Step 7, including the date(s) of the training(s), information/credentials regarding the trainer(s) and sign in sheets reflecting the employee name and titles, topics covered during the training sessions and the amount of time spent on each topic, as well as copies of the materials used in the training.

8. Within 30 days after the completion of the trainings required in Action Step 7, the District will develop a plan to be implemented for educating students and parents about issues related to harassment, including what constitutes harassment on the basis of disability, the impact it has on individual students and the educational environment, the prohibition of all forms of harassment in the educational setting, examples of prohibited conduct, the importance of reporting harassment, how and to whom to report incidents of harassment, the District’s obligation to respond appropriately to notice of harassment, and potential consequences and corrective action if harassment is found. The District will train students on the plan and will implement the plan and monitor its effectiveness.

Reporting Requirement: Within 15 days of the completion of the training, the District will provide OCR with documentation that it has implemented Action Step 5, including a copy of the plan developed by the District and how it has been implemented.

XXXXXX

9. xx – paragraphs redacted – xx

Reporting Requirement: XXXXXX

The District understands that OCR will not close the monitoring of this Agreement until such time that OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. §§ 104.7(a) and (b) and 104.33-36, and Title II of the ADA at 28 C.F.R. §§ 35.107(a) and (b) and 35.130, which were at issue in this case.

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. §§ 104.7(a) and (b) and 104.33-36, and Title II of the ADA at 28 C.F.R. §§ 35.107(a) and (b) and 35.130, which 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/

May 16, 2017

By: _____

Date: _____

Superintendent or designee