

Resolution Agreement
Calvert County Public Schools
OCR Docket Number 03171130

The U.S. Department of Education, Office for Civil Rights (OCR) and the Calvert County Public Schools (the District) enter into this agreement to resolve the allegation in the above-referenced complaint. This agreement does not constitute an admission of liability by the Calvert County Public Schools. 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), which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions:

Memorandum

1. The District recognizes its obligation under the regulation implementing Section 504 which prohibits the District from discriminating on the basis of disability. Specifically, the regulation, at 34 C.F.R. Section § 104.4(a), which states that no qualified person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity. A school district must make reasonable modifications to its policies, practices, or procedures whenever such modifications are necessary to ensure equal opportunity for an individual with a disability, unless the school district can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the program. In considering whether a reasonable modification is legally required, the school district must first engage in an individualized inquiry to determine whether the modification is necessary. If the modification is necessary, the district must allow it unless doing so would result in a fundamental alteration of the nature of the activity or program. By December 15, 2017, the District will outline the above regulation on its web page and will e-mail the regulation to those staff members responsible for determining accommodation requests.

2. **Reporting Requirement:**

By January 2, 2018, the District will submit to OCR documentation demonstrating that it amended its web page and sent the e-mails to those staff members responsible for determining the accommodation requests.

Policies and Procedures

Reasonable Accommodations

3. The District will develop, for OCR's review and approval, procedures for individuals requesting reasonable accommodations from the District, to ensure compliance with Section 504 and Title II. At a minimum, the District's regulations will:
 - a. Identify (by title and contact information) the individual(s) involved with determining appropriate accommodations and the District's designated 504 Coordinator.
 - b. Describe the process for requesting accommodations, including where and with whom to initiate the process.
 - c. Provide an interactive process from the time of an individual's initial request through the District's determination of what, if any, accommodation will be provided. "It is understood that the District shall make reasonable modifications in policies, practices or procedures, when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity. In determining what type of auxiliary aids and services are necessary, the District shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner and in such a way as to protect the privacy and independence of the individual with a disability."

This process will be led by the District's designated 504 Coordinator or his/her designee and will include input from the individual with a disability, the individual's medical expert (medical documentation, recommendations, communication), and the 504 Coordinator or designee and the District's medical expert, if necessary.

- d. Provide an interactive process for addressing any issues that may arise with the Districts' provision of agreed-upon accommodation(s), including assurances that the District will address any instances where it is determined that there was a failure to provide such accommodation(s), or that the accommodation(s) provided was/were ineffective, by taking steps to ensure delivery of effective accommodation(s).
- e. Include a requirement that the Section 504 Coordinator or designee maintains a file or database for all accommodations requests by parents. The file is to contain: 1) the date(s) of requests for accommodation, 2) the nature of each request and any supporting document provided, 3) the reason(s) for any denials, 4) the date of any

communication from any individual indicating any concerns with the provision or effectiveness of the accommodation(s), and 5) the steps the District took to engage in an interactive process to resolve such concerns.

Reporting Requirement:

4. By January 15, 2018, the District will submit to OCR the draft procedures for OCR's review and approval:
5. Within 45 calendar days of written approval from OCR that the procedures are consistent with Section 504, the District will adopt and implement the procedures and include a notice on its web page that new 504 procedures are contained on the website. The District's 504 procedures will also be included on the 504 document provided to parents at 504 meetings. E-mails including the new procedures will be provided to those District employees who are responsible for determining reasonable accommodation requests.
6. Within 60 calendar days of OCR's approval of the procedures, the District will provide OCR with documentation demonstrating implementation of item #5 of the Agreement, including copies of the e-mails, 504 document, and a link to the webpage where the procedures are located.

Designated Responsible Employee

7. *Designation of Responsible Employee (504 Coordinator Designation).* The District will develop language for its website and relevant procedures that provide the name/title and contact information designating at least one employee responsible for and has knowledge in coordinating the District's efforts to comply with Section 504, as required by 34 C.F.R. Section 104.7(a). The District will ensure that the knowledgeable employee(s) are/is identified consistently across its policies, regulations, and procedures regarding disability discrimination, specifically in its Anti-Discrimination Statement, Grievance Procedures, and policy/procedures for requesting reasonable accommodations.

Reporting Requirements

8. Within 45 days after approval by OCR of the District's new 504 procedures, the District will submit to OCR for review and approval, the draft language described above in Action Step #7, identifying the 504 Coordinator.
9. Within 30 days of OCR's written approval, the District will post the information on an easily accessible webpage and provide OCR the link to the webpage regarding the designated 504 coordinator.

10. Within 60 calendar days of OCR's approval of the draft language identifying the designated 504 Coordinator, the District will provide OCR with documentation demonstrating implementation of Action Step #7 of the Agreement, including weblinks and copies of policies/ procedures that include information regarding the designated 504 Coordinator.

Section 504 procedures

11. In consultation with OCR, the District will review, revise, and develop grievance procedures which 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). As part of this process, the District will review and revise, as necessary, the complaint procedures that can be used for filing disability discrimination complaints to ensure that there is a clear and consistent process. The District's Section 504 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 discrimination carried out by students, employees, or third parties;
 - c. adequate, reliable, and impartial investigation, including the opportunity 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.
12. Within 45 calendar days of written approval from OCR that the District's Section 504 grievance procedures are consistent with the requirements in Section 504, the District will adopt and implement the procedures and will include this information on its webpage and in its 504 brochure and will notify each administrator responsible for determining reasonable accommodations of the 504 grievance procedures.

Reporting Requirements:

13. Within 45 days of the date identified in Action Step #12 above, the District will provide OCR with a copy of its proposed Section 504 grievance procedures, pursuant to item Action Step #11 above.
14. Within 60 calendar days of OCR's approval of the Section 504 grievance procedures, the District will provide OCR with documentation demonstrating implementation of Action Step #12 of the Agreement, including copies of the written notices issued to students, parents and employees regarding the new Section 504 grievance procedures and a description of how the notices were distributed; and a link to its webpage where the policy and student and employee handbooks are located.

Training

15. Within 90 days of OCR's approval of the new policy for requesting reasonable accommodations and revised Section 504 grievance procedures, the District will provide training to all District staff members and administrators responsible for determining the accommodation requests on the District's new policies. The training will reiterate that Section 504 prohibits that each qualified person, on the basis of disability, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any program or activity, and the District's obligation to make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified individual with a disability.

Reporting Requirements:

16. By February 15, 2018, the District will provide OCR with a copy of its proposed training, including a copy of any materials to be utilized and distributed as part of the training, the identification of the individual who will oversee the training, and his/her credentials. The person will have an expertise in the relevant portions of Section 504 at 34 C.F.R. §§ 104.4(a) and (b)(i-iii) and 104.7(b) as well as Title II at 28 C.F.R. §§ 35.160(b)(1)(2) and 35.107.b.
17. Within 120 days of OCR's approval of the District's proposed training, or, if the date falls during the District's summer recess, by September 30th of the next school year, the District will provide documentation demonstrating implementation of Action Step #15 of the Agreement. Specifically, the District will provide OCR with documentation that it provided the training in accordance with Action Step #15, information/credentials regarding the employee overseeing the training, documentation of the electronic sign-in of the employees who took the training, including names and titles, topics covered during the training, and copies of the materials used in the training.

The District understands that by signing the Agreement, it agrees to provide foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that, during the monitoring of the 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 the Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), (b)(i-iii) and 104.7(b) and Title II, at 28 C.F.R. §35.130(a) and (b)(1)(iii), which were at issue in this case. 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, including to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings, including to enforce the 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/

11/3/2017

Superintendent or Designee

Date

/s/

11/6/2017

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

Date