

RESOLUTION AGREEMENT
Barbour County Schools
OCR Case No. 03-17-1170

The U.S. Department of Education, Office for Civil Rights (OCR) and the Barbour County Public Schools (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 or non-compliance 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.

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

Notice of Non-Discrimination

1. The District will ensure that it has a notice of non-discrimination included on its website, in student handbooks, and other widely disseminated publications which will include the name or title, office address, and telephone number of the District's designated employee responsible for coordinating the District's efforts to comply with, and carry out, its responsibilities pursuant to Section 504 and Title II. The notice may include other bases (race, sex, age, etc.).

Reporting Requirement: By October 12, 2018, the District will provide to OCR, for its review and approval, a copy of its notice of non-discrimination.

2. Within 45 days of OCR's approval of the notice of non-discrimination, the District will submit documentation to OCR showing that the revised notice was widely published to the extent required by Section 504 at 34 C.F.R. § 104.8.

Section 504/Title II Grievance Procedures

3. 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 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.

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 #3.

Reporting Requirement: Within 60 days of signing this agreement 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 adopt and implement the procedures and will provide all students, faculty, staff, and administrators with written notice regarding the revised grievance procedures for resolving Section 504/Title II complaints, together with information on how to obtain a copy of the grievance procedures. The District, at a minimum, will make this notification through its website, electronic mail messages to staff, administrators 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 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.

Training

4. Within 60 days of OCR’s approval of the District’s Section 504/Title II 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 4, the District will provide OCR with documentation, 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.

XXXXXX

5. XXXXXXXX

Reporting Requirement: XXXXXX

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6. XX – paragraphs redacted – XX

Reporting Requirement: XXXXXX

The District understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this 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 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. 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 Recipient's representative below.

By: /s/

10-10-18

Superintendent or designee

Date