

**Resolution Agreement
School District of Philadelphia
OCR Docket Number 03171331**

The U.S. Department of Education, Office for Civil Rights (OCR) and the School District of Philadelphia (the District) enter into this agreement to resolve the allegation 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), as amended, 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131, and its implementing regulation at 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

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.

ACTION STEPS AND REPORTING REQUIREMENTS

Acknowledgments and Memorandum

1. The District acknowledges that:
 - a. Pursuant to the Section 504 regulation, at 34 C.F.R. § 104.4(a) as well as Title II, at 28 C.F.R. §35.130(a), no qualified individual 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 which receives Federal financial assistance.
 - b. Bullying of a student on the basis of his or her disability may result in a disability-based harassment violation under Section 504 and Title II.
 - c. It is obligated 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.
 - d. Harassment and bullying of a student with a disability on any basis may result in a denial of FAPE under Section 504 that must be remedied.
2. December 28, 2018, the District shall distribute an email message to all District educational staff reminding of the items set forth in Action Step 1(a)-(d) above.

Reporting Requirement: By January 11, 2019, the District will submit to OCR a copy of the email message issued in accordance with Action Step #2 and documentation showing it was distributed to educational staff at each of the District's schools and administrative offices.

Anti-Harassment Statement

3. Within 45 days of the OCR's approval of the School District's policies and/or procedures, pursuant to paragraph 4 of 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 in accordance with the IDEA and Student Code of Conduct, 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 15 days of issuance of the above statement, the District will submit to OCR a copy of the statement issued in accordance with Action Step #3 and documentation showing 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.

Policies and Procedures

4. By January 15, 2019, the District shall review, and revise if necessary, its anti-harassment and bullying policies and procedures to make certain such policies and procedures include disability harassment, including a definition and examples of disability harassment. The District will ensure that the policies and procedures explain the District's obligation to take immediate and appropriate steps to investigate complaints of 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 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, including a basis not related to the student's disability, the student's IEP team 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 and must be remedied.

The IEP team or the Section 504 team must determine the extent to which additional or different services are needed, ensure that any needed changes are made promptly, and safeguard against putting the onus on the student with the disability to avoid or handle the bullying. In addition, when considering a change of placement, schools must continue to ensure that Section 504 FAPE services are provided in an educational setting with persons who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability.

Recognizing that neither Section 504 nor Title II requires a separate disability harassment complaint procedure, the District assures OCR that if it chooses to maintain a separate disability harassment complaint procedure, it will comply with the requirements outlined in the Resolution Agreement of OCR Docket # 03-17-1242.

Reporting Requirement: By January 24, 2019, the District will provide OCR with a copy of its current or proposed/revised anti-harassment/bullying procedures for OCR's review and approval, in accordance with Action Step #4 above.

Reporting Requirement: Within 90 calendar days after OCR's approval of the District's anti-harassment/bullying procedures and any related policies and procedures, the District will provide OCR with documentation that it has implemented the procedures, including a detailed written narrative explaining how students, parents, and employees are made aware of the anti-harassment/bullying procedures and may locate them in District publications or on its website.

5. By January 15, 2019, the District shall review, and revise if necessary, its procedures/guidance on truancy to make certain such procedure/guidance does not penalize students with disabilities or their parents/guardians when absences are the result of disability based harassment and bullying or harassment/bullying on any basis that results in the denial of a FAPE.

Reporting Requirement: By January 24, 2019, the District will provide OCR with a copy of its current or proposed/revised procedure/guidance on truancy for OCR's review and approval, in accordance with Action Step #5 above.

Reporting Requirement: Within 45 calendar days after OCR's approval of the procedures/guidance on truancy, the District will provide OCR with documentation that it has implemented the procedures/guidance, including a detailed written narrative explaining how students, parents, and employees are made aware of the revised procedures/guidance on truancy s and may locate them in District publications or on its website.

Training

6. Subsequent to OCR's approval of the District's anti-harassment/bullying policy/procedures and procedures/guidance on truancy, 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 District will provide the training according to a schedule agreed upon by the OCR and the District. 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. This training could be included as part of another related training. In addition, the training for employees who are or would be members of an IEP team as part of their duties within the Office of Specialized Services will specifically address the need to determine whether harassment or bullying on any basis of a student with a disability resulted in a denial of FAPE, and if so, the steps that must be taken to provide the student with a remedy.

Reporting Requirement: Within 45 days after the completion of each training required in Action Step 6, the District will provide OCR with documentation that it provided the training in accordance with Action Step 6, including the date(s) of the training(s), information/credentials regarding the trainer(s), the agenda for the training as well as the position code for each

XX – Paragraphs Redacted – XX

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the resolution agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the District sixty (60) calendar days to cure the alleged breach.

Superintendent or Designee

Date