

VOLUNTARY RESOLUTION AGREEMENT
Montgomery County Public Schools
OCR #03191224

The U.S. Department Education, Office for Civil Rights (OCR) and the Montgomery County Public Schools (the District) enter into this Voluntary Resolution Agreement (Agreement) to resolve the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing 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. § 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. § 12131, 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.

Prior to the completion of OCR's investigation, the District agreed to resolve the issue presented in this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve the issue under investigation, the District agrees to take the actions outlined below.

Action Steps and Reporting Requirements:

1. The District acknowledges its obligation to provide a free appropriate public education (FAPE) to each qualified student with a disability, regardless of the nature or severity of the student'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 (IEP) and Section 504 Plans, for students with disabilities. By October 15, 2019, the District shall distribute a memorandum to all staff at John F. Kennedy High School reminding them of their obligations as set forth above.

Reporting Requirement: By October 31, 2019, the District will submit to OCR a copy of the memorandum issued along with a list of the School personnel, by name and title, who received the memorandum referenced in Action Step 1.

2. By October 15, 2019, the District will convene an Educational Management team meeting to determine whether the Student suffered any educational loss due to the District's alleged failure during the 2018-19 school year to implement the provisions of her Section 504 Plan. If the team determines that the Complainant suffered an educational loss, it will then determine whether the loss entitles the Complainant to compensatory education services. In making this determination, the team will adhere to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards). The District will invite the Complainant, in writing via certified mail, to attend the meeting, at least fifteen (15) days in advance of the meeting, unless the Complainant agrees to waive this requirement. The District will ensure that accurate meeting minutes are kept, including documenting information considered from all sources and all decisions made by the team.

Reporting Requirement: Within 30 days of the meeting required by Action Step #2 and the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents concerning that decision. OCR will, prior to approving the District’s decision and plan for providing the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.35 and 104.36, in making these determinations. The documentation submitted shall include: the written invitation sent to the Complainant for the multidisciplinary team meeting; a list of meeting participants; the information considered by the team; an explanation for all decisions made, including the team’s decision as to whether the Complainant suffered an educational loss; a description of the types of compensatory education or other remedial service options discussed, if applicable; a description of and schedule for providing compensatory and/or remedial services to the Complainant for educational loss (if any); the notice of procedural safeguards provided to the Complainant; and a copy of the meeting minutes.

If the District determines that the Complainant is eligible to receive compensatory and/or remedial services, the District will provide documentation to OCR of the dates, times, and locations that the services were provided, a description of what was provided, and the name(s) of the service provider(s) within 30 days of the conclusion of services.

The District understands that by signing the resolution agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. Further, the District understands that during the monitoring of the resolution 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 and obligations of the resolution agreement. Upon the recipient’s satisfaction of the commitments made under the Agreement, OCR will close the case.

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 written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District’s representative below.

_____/s/_____
Superintendent or Designee

_____/10/9/19_____
Date