

Resolution Agreement

Baltimore County Public Schools
OCR Docket # 03201251

The U.S. Department of Education, Office for Civil Rights (OCR) and the Baltimore County Public Schools (the School System) enter into this Agreement to resolve the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the School System. The School System 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), 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

Prior to the completion of OCR's investigation, the School System agreed to resolve this complaint pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, the School System agrees to take the following actions:

Action Step 1

The School System 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 School System 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. The School System also acknowledges that it is required under 34 C.F.R. § 104.37(a)(1) to provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities.

Within 30 days of signing this agreement, the School System shall distribute a memorandum to all staff at XXXXXXXXXXXXXXXXXXXXXXXX High School) reminding them of their obligations as set forth above.

Reporting Requirement

Within 45 days of signing this Agreement, the School System 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 email message referenced in Action Step #1.

Action Step 2

By June 30, 2021, the School System will convene an IEP meeting, to include relevant educational specialists who have knowledge about the Student and the Student's disabilities, to determine whether the Student suffered any educational loss due to the School System's alleged that staff at XXXXXXXXXXXXXXXXXXXXXXXX High School): (1) excluded the Student from classes during the spring and summer of 2020, (2) discouraged the student from participating in

the XXXX High School Band program during the 2020-2021 school year, stating the program would not accommodate his disability-related needs, and (3) failed to provide him appropriate services as set forth on his Individualized Education Program (IEP) while he was enrolled in the Band enrichment program in February and March 2020.

If the IEP team determines that the Student suffered an educational loss, it will then determine whether the loss entitles the Student to compensatory education services. In making this determination, the IEP team will adhere to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards).

Within 15 days of signing this Agreement, the School System will invite the Complainant, in writing via certified mail, to attend the IEP meeting, at least fifteen (15) days in advance of the meeting, unless the Complainant agrees to waive this requirement. The School System will ensure that accurate meeting minutes are kept, including documenting information considered from all sources and all decisions made by the team.

Reporting Requirement

1. By July 15, 2021, the School System will submit to OCR documents concerning the meeting held in accordance with Action Step 2 above. OCR will, prior to approving the School System's decision and plan for providing the proposed services, review the documentation to ensure that the School System met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations. The documentation submitted shall include: the written invitation sent to the Complainant for the placement team meeting; a list of meeting participants; the information considered by the placement team; an explanation for all decisions made, including the team's decision as to whether the Student suffered an educational loss; a description of the types of compensatory education or other remedial service options discussed; a description of and schedule for providing compensatory and/or remedial services to the Student for educational loss (if any); the notice of procedural safeguards provided to the Complainant; and a copy of the meeting minutes.
2. If the School System determines that the Student is eligible to receive compensatory and/or remedial services, the School System 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 15 days of the conclusion of services.

Action Step 3

By September 6, 2021, the School System will conduct Section 504 training for all faculty, staff, and administrators at XXXXXXXXXXXXXXXXXXXX High School), including the individual designated as the 504 Coordinator for the XXXXX High School. The training will focus on the School System's obligation to provide qualified students with disabilities with a free and appropriate public education (FAPE), including the School System's responsibilities regarding identification, evaluation, and placement procedures required by Section 504 and II. The training

will also include discussion of the School System's obligation to provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities.

Reporting Requirement

By October 6, 2021, the School System will provide documentation to OCR demonstrating that the School System has initiated training in accordance with Action Step #3 above. The documentation will include: (1) the date(s) of the training session(s); (2) signed and dated sign-in sheets, including a list of names and titles of School System faculty and staff at the magnet high school who participated in each training session; (3) a list of individuals unable to attend a training session by name and title; (4) a plan for provision of the training information to those individuals unable to attend; (5) a description of the presenter's background and qualifications with respect to knowledge of Section 504 and II; and (6) a copy of the agenda and the training materials disseminated.

Action Step 4

Within 15 days of signing this Agreement, the School System will write to the Complainant via email and mail, with an offer for the Student to join the XXXX Band Program. The Complainant shall be notified that she and the Student have 10 days to accept the offer to join the XXXX Band Program.

Reporting Requirement

Within 30 days of signing this Agreement, the School System will provide OCR with a copy of the letter sent to the Complainant as set forth in Action Step 4, as well as any response received from the Complainant.

Action Step 5

On an annual basis, the Section 504 Coordinator for the School will maintain the following data:

- a. A report listing the students accepted into the XXXX Band Program.
- b. For students with disabilities accepted into the XXXX Band program and any associated enrichment programs (i.e., summer classes, Saturday classes), a description of whether the student received appropriate accommodations per their IEPs/504 plans in those programs.

Reporting Requirement

By June 30, 2022, and June 30, 2023, the School System will provide the data referenced in Action Step #5 above to OCR for the most recently completed school year.

The School System understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the School System understands that during the monitoring of the

Agreement, if necessary, OCR may visit the School System, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the recipient has fulfilled the terms of the Agreement. Upon the School System's satisfaction of the commitments made under the Agreement, OCR will close the case.

The School System further understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR will give the School System 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 School System's representative below.

/s/

5/14/21

Superintendent or Designee

Date