

Voluntary Resolution Agreement
Wayne County Schools
OCR No. 03221007
Philadelphia Office

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

The District assures OCR that, to resolve the issues of this investigation, 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.

ACTION STEPS AND REPORTING REQUIREMENTS

1. By April 30, 2022, the District will convene a multidisciplinary team (Team) 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 and/or is entitled to compensatory education or remedial services due to the District's alleged failure to implement the Student's Section 504 Plan for the 2021-2022 school year.

The District will invite the Student's parents to attend the meeting at least 15 calendar days in advance of the meeting and will allow the Complainant seven (7) calendar days, from the date of receipt of the letter, to submit a written response to the invitation.

Specifically, the Team will review whether the Student suffered educational loss because of the District's alleged failure to provide her with printed notes and materials in XXXXX class, as required by her Section 504 plan, during the XXXXX school year. If the 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 Team will adhere to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards). The District will provide the Complainant with a meaningful opportunity to provide input into the Team's determination.

If the Team determines that the Student is entitled to compensatory education or services, the Team will develop a plan for providing the required education or services, and the District will provide such education or services in addition to any other service to which the Student is entitled.

Reporting Requirement: By May 15, 2022, the District will submit, for OCR’s review and approval, documentation reflecting the Team’s decision and showing that the meeting required by Action Item 1 took place. Before approving the District’s decision and plan for providing any proposed services, OCR will 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 its determination. The documentation submitted shall include: a copy of the invitation to the Complainant; a list of attendees by name and title; the information considered by the 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, if applicable; a description of and schedule for providing compensatory and/or remedial services to the Student for educational loss (if any); confirmation that the procedural safeguards were provided to the Complainant; and a copy of any meeting minutes or notes.

2. Within 15 calendar days of OCR’s approval of the Team’s decision described in Action Step 1 above, the District will provide the Complainant with written notice of the outcome of the meeting, including: a description of any educational loss; a description of any compensatory educational services to be provided; and the appropriate beginning and ending dates for these services, as applicable.

If compensatory educational services are determined to be necessary for the Student, the District will inform the Student’s parents and provide 15 calendar days to respond to the offer. The notice will also inform the Student’s parents of the applicable procedural safeguards, in accordance with the requirements of 34 C.F.R. § 104.36. If compensatory services are warranted, and the Student’s parents accept the District’s offer, the District agrees to begin providing the compensatory services within 15 calendar days from the date the Student’s parents accept the District’s offer.

If the Team determines that no educational loss occurred or that no compensatory services are necessary, the District will provide in its written notice to the Student’s parents a written explanation of its decision, along with a notice of the procedural safeguards.

Reporting Requirement: Within 30 days of OCR’s approval of the Team’s decision described in Action Step 1, the District will submit to OCR documents confirming that it has complied with Action Step 2, including a copy of the written notice to the Student’s parents and, if applicable, a description of and schedule for providing any compensatory education services to the Student.

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 and obligations of this Agreement. Upon the District’s satisfaction of the commitments made under this Agreement, OCR will close the case.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District had demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which were at issue in this review.

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 60 calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the District's representative below.

/s/

Superintendent or Designee

4/8/22

Date