

Resolution Agreement

Baltimore County Public Schools
OCR Docket # 03221198

The U.S. Department of Education, Office for Civil Rights (OCR) and the Baltimore County Public Schools (the District) 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 District. Prior to the completion of OCR’s investigation, the District agreed to resolve this complaint pursuant to Section 302 of OCR’s Case Processing Manual. 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), 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.

Action Step 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 the regulation enforcing Section 504 at 34 C.F.R. § 104.33, and enforcing Title II at 28 C.F.R. § 35.130. Specifically, the District recognizes its obligations under the regulation enforcing Section 504 at 34 C.F.R. § 104.35(c)(3) to ensure that decisions concerning a change in placement, XX
XXXXX, must be made by a group of persons, including persons knowledgeable about the student. XX
XX
XX
XX
XX.

The District will ensure that, in interpreting evaluation data and making placement decisions, including changes in placement XXXXXXXXXXXXXXXXXXXXXXXX, the District will ensure that the decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

Within 30 days of signing this agreement, the District shall distribute a memorandum to all administrators in the District reminding them of their obligations as set forth above, including the regulation enforcing Section 504 at 34 C.F.R. § 104.35 and BCPS Rule 5560.

Reporting Requirement

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

Action Step 2

By October 31, 2022, the District will convene a Section 504 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 due to the District's alleged failure to adhere to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) when it changed the Student's placement XXXXXXXXXXXXXXXXXXXXXXXX.

If the Section 504 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 Section 504 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 District will invite the Complainant, in writing via certified mail, to attend the Section 504 team 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

1. By November 15, 2022, the District will submit to OCR documents concerning the meeting held in accordance with Action Step 2 above. 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. §§ 104.34, 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 District determines that the Student 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 15 days of the conclusion of services.

Action Step 3

By January 31, 2023, the District will conduct Section 504 training for central office administrators and staff at the XXXXXXXXXXXXXXXX responsible for making determinations regarding the expulsion and interim alternative placement of children XXXXXXXXXXXXXXXX. The training will focus on the District's obligation to provide qualified students with disabilities

with a free and appropriate public education (FAPE), including the District’s responsibilities regarding identification, evaluation, and placement procedures required by Section 504, Title II, as well as the requirements of BCPS Rule 5560. The training will include how those requirements apply to a change in placement XXXXXXXXXXXXXXXXXXXXXXXXXXXX, and any relevant District procedures for ensuring that these requirements are followed.

Reporting Requirement

By February 15, 2023, the District will provide documentation to OCR demonstrating that the District has conducted 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 District administrators who participated in each training session; (3) a list of individuals unable to attend a training session by name and title; (4) documentation indicating that the training materials were provided to those individuals unable to attend; (5) a description of the presenter’s background and qualifications with respect to knowledge of Section 504 and Title II; and (6) a copy of the agenda and the training materials disseminated.

Action Step 4

On an annual basis, the XXXXXXXXXXXXXXXX will maintain the following data:

- a. A report listing students with disabilities who had a change in placement XXXXXXXX XXXXXXXXXXXXXXXX.
- b. For each such student, documentation sufficient to show that the change in placement occurred in compliance with of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35 and 104.36, including the date and time of the Section 504 meeting discussing the change in placement, as well as documentation that the parents/guardians were provided with procedural safeguards.

Reporting Requirement

By June 30, 2023, and June 30, 2024, the District will provide the data referenced in Action Step #4 above to OCR for the most recently completed school year.

By signing the Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the 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 the Agreement.

The District understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the District is in compliance with the terms of this Agreement and 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 case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms of the Agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will 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

_____/9/15/2022_____
Date