

RESOLUTION AGREEMENT
Prince George's County Public Schools
OCR Docket Number: 03221408

The Prince George's County Public Schools (the District) agrees to resolve the above-referenced complaint by voluntarily entering into this Resolution Agreement (Agreement) with the U.S. Department of Education's Office for Civil Rights (OCR). 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 ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 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, 28 C.F.R. Part 35 which prohibit 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 raised in this complaint pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues under investigation, the District agrees to take the actions outlined below.

Action Steps and Reporting Requirements

I. THE STUDENT

1. The District acknowledges its obligation to provide a free appropriate public education (FAPE) to each qualified individual with a disability within its jurisdiction in accordance with Section 504 at 34 C.F.R. § 104.33, and Title II at 28 C.F.R. § 35.130, including adherence to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards).
2. By March 31, 2023 the District will convene the Student's multidisciplinary Individualized Education Program (IEP) team to determine whether the Student suffered an educational loss during the XXXXXXXXX school year and current school year due to the lack of PDN services, and an occupational therapy vacancy, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX. In making this assessment, the District will also determine whether the Student missed any occupational therapy sessions, speech and language therapy sessions and adapted physical education sessions during the XXXXXX and current school years.

The District will invite the Complainant, in writing via regular mail as well as by email, to attend the IEP meeting, at least fifteen (15) days in advance of the meeting, unless the Complainant agrees to waive this requirement. If the District determines that the Student suffered an educational loss, the District will assess whether the Student requires any compensatory or remedial services as a result, and develop a schedule for implementing the services, as appropriate. 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). The District will ensure that accurate meeting minutes are kept to document this meeting, including documenting information considered from all sources and all decisions made by the team.

3. Within fifteen (15) days of the IEP meeting required by Action Step 2, the District will provide the Complainant with written notice, by regular mail and email, of the outcome of the meeting. If it is determined that the Student experienced an educational loss during the XXXXXXXXXXXX school year and current school year, and compensatory education or other remedial educational services will be provided to the Student, the written notice will provide:
 - a. a description of the compensatory and/or remedial educational services to be provided;
 - b. the subject areas covered;
 - c. the amount of services; and
 - d. where and when the services will be provided, including the appropriate beginning and ending dates for the services.

The compensatory education or other remedial services shall be delivered in a manner so as not to hinder the delivery of any services that are required by the Student's current educational program. If the IEP team determines that no educational loss occurred, the District will provide an explanation of its decision to the Complainant, including the basis for its decision, along with a notice of the procedural safeguards, including the right to challenge the IEP team's determination through an impartial due process hearing.

Reporting Requirement:

Within 21 days of the IEP team meeting required by Action Step #2 and the IEP team's decision regarding compensatory education, the District will provide OCR with documentation demonstrating that it held the required IEP meeting and determined whether the Student requires compensatory education. OCR will review the documentation submitted by the District to ensure that the District has met the procedural and other requirements of the Section 504 implementing regulation, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations.

The documentation submitted shall include:

- e. the written offer sent to the Student's parent for the IEP team meeting;
- f. a list of meeting participants;
- g. the information considered by the IEP team;
- h. an explanation for all decisions made, including the team's decision as to whether the Student suffered an educational loss;

- i. a description of the types of compensatory education or other remedial service options discussed;
- j. a description of and schedule for providing compensatory and/or other remedial services to the Student for educational loss (if any);
- k. the notice of procedural safeguards provided to the Complainant; and
- l. a copy of the IEP with prior written notice (PWN).

If the District determines that the Student is eligible to receive compensatory and/or other 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.

II. OTHER STUDENTS

4. By May 31, 2023, the District will produce a report for OCR detailing each student in the District that did not receive PDN services provided through the same agency utilized by the Student, for the XXXXXX and current school years. The report will provide each student's name, p, date, and specific hours of missed PDN services. If any of the identified students have already been evaluated for a loss of FAPE and/or compensatory education services, the District will provide OCR with the following documentation:
 - a. the written offer sent to the student's parent for the multidisciplinary team meeting;
 - b. a list of meeting participants;
 - c. the information considered by the multidisciplinary team;
 - d. an explanation for all decisions made, including the team's decision as to whether the student suffered an educational loss;
 - e. a description of the types of compensatory education or other remedial service options discussed;
 - f. a description of and schedule for providing compensatory and/or other remedial services to the student for educational loss (if any);
 - g. the notice of procedural safeguards provided to the Complainant;
 - h. a copy of the meeting minutes;
 - i. a description of the compensatory and/or remedial educational services to be provided;
 - j. the subject areas covered;
 - k. the amount of services;
 - l. where and when the services will be provided, including the appropriate beginning and ending dates for the services; and
 - m. notice to the parent of the District's determination regarding compensatory education services.
5. By May 31, 2023, the District will produce a report for OCR detailing each student in the District that did not receive occupational therapy services due the XXXXXXXX vacancy. The report will provide each student's name, disability status, date, and specific hours of missed occupational therapy services. If any of the identified students have been evaluated for a

loss of FAPE and/or compensatory education services, the District will provide OCR with the following documentation:

- a. the written offer sent to the student’s parent for the multidisciplinary team meeting;
 - b. a list of meeting participants;
 - c. the information considered by the multidisciplinary team;
 - d. an explanation for all decisions made, including the team’s decision as to whether the student suffered an educational loss;
 - e. a description of the types of compensatory education or other remedial service options discussed;
 - f. a description of and schedule for providing compensatory and/or other remedial services to the student for educational loss (if any);
 - g. the notice of procedural safeguards provided to the student’s parent;
 - h. a copy of the meeting minutes;
 - i. a description of the compensatory and/or remedial educational services to be provided;
 - j. the subject areas covered;
 - k. the amount of services;
 - l. where and when the services will be provided, including the appropriate beginning and ending dates for the services; and
 - m. notice to the parent of the District’s determination regarding compensatory education services.
6. For any students identified in Action Steps 4 and 5 who have not yet been evaluated for a denial of FAPE and/or compensatory services, by August 31, 2023, the District will convene each student’s multidisciplinary team to determine whether the student suffered an educational loss during the XXXXXXXXX school year and current school year due to the lack of PDN services, and/or occupational therapy vacancy.

The District will invite the guardian, in writing via regular mail as well as by email, to attend the multidisciplinary meeting, at least fifteen (15) days in advance of the meeting, unless the Complainant agrees to waive this requirement. If the District determines that the student suffered an educational loss, the District will assess whether the student requires any compensatory or remedial services as a result, and develop a schedule for implementing the services, as appropriate. In making this determination, the multidisciplinary team will adhere to the requirements of 34 C.F.R. § 104.35 (evaluation and placement) and § 104.36 (procedural safeguards). The District will ensure that accurate meeting minutes are kept to document this meeting, including documenting information considered from all sources and all decisions made by the team.

7. Within fifteen (15) days of the IEP meeting required by Action Step 6, the District will provide the guardian with written notice, by regular mail and email, of the outcome of the meeting. If it is determined that the student experienced an educational loss during the XXXXXXXXX school year and current school year, and compensatory education or other

remedial educational services will be provided to the student, the written notice will provide:

- a. a description of the compensatory and/or remedial educational services to be provided;
- b. the subject areas covered;
- c. the amount of services; and
- d. where and when the services will be provided, including the appropriate beginning and ending dates for the services.

The compensatory education or other remedial services shall be delivered in a manner so as not to hinder the delivery of any services that are required by the student's current educational program. If the IEP team determines that no educational loss occurred, the District will provide an explanation of its decision to the guardian, including the basis for its decision, along with a notice of the procedural safeguards, including the right to challenge the IEP team's determination through an impartial due process hearing.

Reporting Requirement:

Within 21 days of the multidisciplinary team meeting(s) required by Action Step 6 and 7 and the multidisciplinary team's decision(s) regarding compensatory education, the District will provide OCR with documentation demonstrating that it held the required multidisciplinary meeting and determined whether the student(s) require(s) compensatory education. OCR will review the documentation submitted by the District to ensure that the District has met the procedural and other requirements of the Section 504 implementing regulation, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations.

The documentation submitted shall include:

- e. the written offer sent to the student's guardian for the IEP team meeting;
- f. a list of meeting participants;
- g. the information considered by the IEP team;
- h. an explanation for all decisions made, including the team's decision as to whether the student suffered an educational loss;
- i. a description of the types of compensatory education or other remedial service options discussed;
- j. a description of and schedule for providing compensatory and/or other remedial services to the student for educational loss (if any);
- k. the notice of procedural safeguards provided to the parent; and
- l. a copy of the IEP with prior written notice (PWN).

If the District determines that the student is eligible to receive compensatory and/or other 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.

By signing this resolution agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirement of this Agreement. 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 of this 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 is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104, and Title II and its implementing regulation at 28 C.F.R. Part 35, which were at issue in this complaint.

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 this 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 sixty (60) calendar days to cure the alleged breach.

/s/

2/28/2023

Superintendent or Designee

Date