

**Voluntary Resolution Agreement
Marion County Schools
OCR Complaint #03231139**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Marion County 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, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131-12134, 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.

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).

ACTION STEPS AND REPORTING REQUIREMENTS

1. By August 1, 2023, the District will provide the Complainant with an opportunity to XX
XXXXXXXXXXXXXXXXXXXX. The District’s offer will be made by certified letter
and by email, and will notify the Complainant that she must respond within 15 calendar
days to accept the offer.

Reporting Requirement: By August 20, 2023, the District will provide OCR with
documentation showing implementation of Action Step 1 above, including: copies of the
written and e-mail notices issued to the Complainant; as applicable, a copy of the
Complainant’s response to the District’s offer; and as applicable, XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX.

2. XXX, the
District will reconvene the Student’s IEP Team (the Team), consisting of persons
knowledgeable about the Student, including the Student’s parent(s)/guardian(s), and
knowledgeable staff from the Student’s school. The District will provide the Student’s
parent(s)/guardian(s) a meaningful opportunity to provide input into the determinations,
written notice of the determinations made, and notice of the procedural safeguards
available to them under the Section 504 implementing regulations at 34 C.F.R. § 104.36,
including the right to challenge such determinations through an impartial due process
hearing.

Specifically, the Team will discuss the following:

- a. Modifying the District’s Positive Behavioral Interventions and Supports (PBIS)
program as applied to the Student to align with his individual Behavioral Intervention

Plan (BIP). This will include a written description about how the School will adjust the PBIS expectations necessary for the Student to succeed in the PBIS program. The discussion will include consideration of Section 504’s requirement that the Student not be treated less favorably than similarly situated students due to his disability.

- b. Determine whether the District’s failure to modify the School’s PBIS for the Student during the XXXXXX school year resulted in an educational loss; and
- c. Determine whether the discipline assigned to the Student on XXXXXXXXXXXXXXXX was consistent with the District’s discipline of the Student prior to XXXXXXXXXXXX, when the Complainant engaged in an protected activity, and also discuss whether the discipline was consistent with his BIP. If the Team decides that it was not consistent with the Student’s BIP or disciplinary action prior to XXXXXXXXXXXX, the Team will determine whether the discipline on XXXXXXXXXXXXXXXX resulted in an educational loss;

Reporting Requirement: By September 15, 2023, the District will provide OCR with documentation showing implementation of Action Step 2 above, including: the names and titles of the individuals who attended the Team meeting; a copy of any meeting minutes, including detailed notes of the discussion regarding items 2.a-c above; a copy of the Student’s IEP; a copy of any plan for compensatory education and/or other remedial services developed for the Student; documentation of any input provided by the Student’s parent(s), and documentation showing that procedural safeguards were provided to them; and any other documentation relevant to the determinations reached in accordance with Action Step 2 above. If the Team determines that the Student’s current IEP does not need to be amended and/or determines that compensatory education and/or other remedial services for the Student are not necessary, the District will provide a detailed written explanation for the determination(s), along with supporting documentation. OCR will review the documentation submitted to ensure that the District has met the procedural requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in reaching these decisions.

As applicable, by October 30, 2023, the District will provide OCR with documentation of the dates, times, and locations that compensatory education and/or other remedial services, if required, were provided, a description of what was provided, and the name(s) of the service provider(s).

- 3. XX, the District will provide training to XXXXXXXXXXXXXXXXXXXX (School) administrators (i.e., the school principal, assistant principal, etc.), Section 504 Coordinators, instructional staff and school counselors, regarding the District’s obligations to students with disabilities under Section 504. Specifically, the training will address:
 - a. The District’s responsibility to meet the individual educational needs of students with disabilities, including their behavioral needs;
 - b. The District’s responsibility to affirmatively develop and implement strategies appropriate to the individual needs of a student with a disability, and modifying the Positive Behavioral Interventions and Supports (PBIS) program for such students as may be necessary;
 - c. The District’s responsibility to reconvene the Team if it comes to the District’s attention that a Section 504 Plan or IEP does not meet the individual educational

needs of a student with a disability, and to consider whether the Section 504 Plan or IEP should be revised to include other appropriate strategies.

Reporting Requirement: By September 30, 2023, the District will provide OCR with documentation confirming completion of the required training, including: (a) the name of the individual(s) who conducted the training and their qualifications; (b) the date(s) of the training session(s); (c) all training materials; and (d) a sign-in sheet including a list of the names, signatures, and position titles of the District personnel who participated in each training session.

4. By September 15, 2023, the District will issue a memo to all School staff, advising that District personnel must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under Section 504.

Reporting Requirement: By September 30, 2023, the District will provide OCR with a copy of the memo described in Action Step 3 above, including the distribution list of the recipients of the memo.

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 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 the Resolution Agreement and is in compliance with 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, that were at issue in this case. Upon the District's satisfaction of the terms and obligations of the Resolution Agreement and is in compliance with Section 504 and its implementing regulation, 34 C.F.R. Part 104, and Title II and its implementing regulation, 28 C.F.R. Part 35 that were at issue in this case, 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 statutes and regulations. 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

7/10/2023
Date