

**Voluntary Resolution Agreement**  
**Upshur County Schools**  
**OCR Complaint No. 03231147**  
**Philadelphia Office**

The U.S. Department of Education, Office for Civil Rights (OCR) and Upshur 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 ITEM 1**

The District will conduct a review of its existing procedures for ensuring teachers receive and implement 504 plans. The procedures must provide for the prompt, thorough, and effective review of the 504 plans for students prior to the start of the academic year. The procedures will, at a minimum, include:

- a. An assurance that IEP's and 504 plans are not lost in transition between XXXXXXXX XXXX school;
- b. Distribution of a memorandum that will outline steps required for a seamless transition of IEP's and 504 plans from XXXXXXXXXXXX school;
- c. Designation of an employee(s) to coordinate the transfer of IEP and 504 plans for students who transition between XXXXXXXXXXXX school;
- d. Information regarding required training for employees with direct involvement in the transfer of IEP and 504 plan files; and
- e. A recordkeeping system sufficient to document that teachers receive the plans prior to the start of the school year and prepared to implement them on the first day of school.

**REPORTING REQUIREMENTS:**

- A. By September 1, 2023, the District will provide to OCR, for its review and approval, its proposed procedures, pursuant to Action Item 1.
- B. Within 30 days of OCR's approval of the procedures developed pursuant to Action Item 1, the District will provide OCR with documentation demonstrating that the memorandum detailed in Action Item 1(b) has been distributed to relevant

staff. The District will include a copy of the memorandum, a list of all staff who received the memorandum, by name and title, and documentation demonstrating that the memorandum was sent to each individual.

## **ACTION ITEM 2**

The District will provide training to all staff at XXXXXXXX School (School) who are responsible for creating, circulating, and/or implementing 504 plans for any student. The training will address, at a minimum:

- a. The identification and evaluation of students with disabilities;
- b. The procedural requirements for 504 team meetings, including who should be present and what information should be considered;
- c. The District's obligation to implement 504 Plans; and
- d. The procedure by which 504 plans will be circulated to teachers and how teachers will confirm receipt of each 504 Plan.

### **REPORTING REQUIREMENTS:**

- A. By September 1, 2023, the District will provide to OCR, for its review and approval, copies of the slides to be used in the training described in Action Item 2, and the name and qualifications of the trainer (Training Materials).
- B. Within 30 days of OCR's approval of the Training Materials, the District will provide documentation demonstrating that the training required by Action Item 2 of the Agreement was provided to the relevant District staff. This documentation will include a copy of the final slides presented and sign-in sheets for all attendees.

## **Action Item 3**

By September 1, 2023, the District will convene a 504 meeting to include relevant educational specialists who have knowledge about the Student, to determine whether the Student suffered any educational loss as a result of the District's alleged failure to implement the Student's 504 during the XXXXXX 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 them seven (7) calendar days from the date of receipt of the letter to submit a written response to the invitation.

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 Student's parents 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 September 1, 2024, the District will submit to OCR:

- A. Documentation showing that the meeting described in Action Item 3 took place and reflecting the Team's decision, including:
  - a. a copy of the invitation to the Student's parents;
  - b. a list of attendees by name and title;
  - c. the information considered by the 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, if applicable;
  - f. a description of and schedule for providing compensatory and/or remedial services to the Student for educational loss (if any);
  - g. confirmation that the procedural safeguards were provided to the Student's parents;
  - h. a copy of any meeting minutes or notes; and
  - i. documentation that any compensatory and/or remedial services that the Team determined were appropriate were actually provided;

By signing this 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 resolution agreement, if necessary, OCR may visit the recipient, 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 resolution agreement.

The District understands that OCR will not close the monitoring of the agreement until such time as OCR determines that the District is in compliance with the terms of the 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 complaint.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of breach. Before initiating such proceedings, OCR will give the recipient 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/ \_\_\_\_\_

6/22/2023

Superintendent or Designee

Date