

Resolution Agreement
Clarksville-Montgomery County School District
OCR Docket Number #04-13-1150

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against the Clarksville-Montgomery County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in education programs and activities operated by educational institutions that receive Federal financial assistance and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131, *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to the provisions of these laws. Accordingly, to ensure compliance with the above-referenced laws and regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions.

The District agrees to take all steps reasonably designed to ensure that students enrolled in the District are not subject to a hostile environment, on the basis of disability, and to respond to allegations of disability harassment. To this end, the District will promptly investigate all incidents and complaints of disability harassment of students that are known or reasonably should be known to the District and will take appropriate action to respond to complaints, which may include disciplinary action against students and staff found to have violated its anti-harassment policies and procedures. Harassing conduct may take many forms, including verbal acts and name calling; graphic and written statements, which may include use of cell phones, tablets or the internet; or other conduct that may be physically threatening, harmful or humiliating. The District will take prompt and effective responsive action reasonably designed to end the hostile environment, if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on the affected student(s). Accordingly, the District agrees to the following:

Procedural Remedies

1. By **August 31, 2016**, the District will:
 - a. Modify, for OCR's review and approval, its Non-Discrimination policy (SLT-A001) to include a coordinator for the Age Act as required by 34 C.F.R. § 110.25.
 - b. Modify, for OCR's review and approval, its Discrimination Complaints Procedure (HUM-P010) to specify that the procedures apply to complaints of discrimination or harassment, by third parties, to provide written notice of the outcome of complaints to all parties, and to provide an opportunity for appeal for all parties.
 - c. Subject to OCR's review and approval:

- i) Revise its Harassment Policy (INS-A016) to state that it is applicable to bullying or harassment based on disability and other basis protected under statutes enforced by OCR;
- ii) Revise INS-A016 to reflect that the policy also prohibits harassment and bullying by third parties;
- iii) Revise its definition of harassment, intimidation, and bullying from “any act that substantially interferes with a student’s educational benefits, opportunities or performance...” to state that it is “any conduct that is sufficiently serious to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities” offered by a school or District;
- iv) Provide written notice of the outcome of investigations to all parties, and provide for possibility of discipline on harassment complaints regardless of whether it was filed anonymously;
- v) Provide designated, reasonably prompt timeframes for all stages of the investigation including issuance of a decision; and
- vi) Add an assurance that “the investigation will be conducted in an impartial manner, including an impartial decision maker, the right of the parties to present witnesses and other evidence relevant to the complaint” and an assurance that “the school will take steps to prevent recurrence of any disability-based harassment and remedy discriminatory effects on the complainant and others, if appropriate.”

REPORTING REQUIREMENT:

By **September 30, 2016**, the District will submit the revised procedures in **Item #1** for OCR’s review and approval.

Within 30 days of receiving OCR’s review and approval of the revised procedures, the District will publish and disseminate the procedures, including on its website.

Within 45 days of receiving OCR’s approval of policies SLT-A000, HUM-P010, and INS-A016, the District will provide OCR with copies of written documents that include the revised procedures as well as links to the District’s website or other electronic version of policies SLT-A00, HUM-P010, and INS-A016.

2. By **April 15, 2017**, the District will develop and implement a procedure of monitoring and tracking written and verbal complaints of disability discrimination and harassment against students. The monitoring system will track the following components:
 - a. The date of the complaint.
 - b. Description of the complaint of discrimination (harassment, disparate treatment, failure to provide accommodations, etc.).
 - c. Relationship of the complainant and alleged perpetrator.
 - d. Documentation of the response to the complaint, including the investigation findings and reports, steps taken to remedy or prevent discrimination/harassment and the notification to the parties of the result of the process.
 - e. Date of response to the complainant.

REPORTING REQUIREMENT:

By June 30, 2017, the District will provide OCR a copy of the form it will use to track responses to complaints alleging discrimination and/or harassment on the basis of disability used in the system of monitoring and tracking formal and informal complaints described in **Item #2**.

- 3. By January 16, 2018**, the District will compile a report of all complaints of disability-based harassment received during the 2017-2018 school year, including a notation of the District's investigation with findings.

REPORTING REQUIREMENT:

By January 31, 2018, the District will provide OCR a copy of the compiled report.

Training

- 4. By December 31, 2016**, the District will provide initial training to its School administrators, faculty and staff concerning Section 504 and Title II as they apply to disability harassment, including the prohibition of harassment; examples of conduct constituting harassment including harassment by staff; how to respond to student complaints; and where to refer such complaints. In addition, the training will cover the District's grievance procedure process for Section 504 complaints and the prohibition against retaliation including examples of retaliatory actions. Such training may be delivered through webinar or electronic means.

By August, 31, 2017, and annually thereafter, the District will conduct its regular in-service training for the School staff as described in this item.

REPORTING REQUIREMENT:

By January 30, 2017, the District will provide a copy of its training agenda and the date for the initial training to OCR.

By September 15, 2017, the District will provide OCR with documentation demonstrating that the School has initiated annual training pursuant to this provision of the resolution agreement (Agreement). The documentation shall include: (1) the date of the training session; (2) a list of names and titles of employees who participated in the training session or the number of employees trained and their titles/positions; (3) a description of the presenter's background and qualifications with respect to knowledge of Section 504 and Title II; and (4) a copy of the agenda and the training materials disseminated.

The District understands that by signing this Agreement, it agrees to provide data and other 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 of this Agreement and is in compliance with the Section 504 implementing regulation at 34 C.F.R. §§ 104.4, 104.33-104.35, 104.61, and the Title II implementing regulation at 28 C.F.R. § 35.130.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulation at 34 C.F.R. §§ 104.4, 104.33-104.35, 104.61 and the Title II implementing regulation at 28 C.F.R. § 35.130.

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

This Resolution Agreement will become effective immediately upon the signature of the Superintendent or his/her designee below.

Superintendent or Designee

Date

Printed Name and Title