

**Resolution Agreement
Muscogee County School District
OCR Docket Number 04-13-1162**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Muscogee County School District (District), pursuant to Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1689, *et seq.*, and its implementing regulation, 34 C.F.R. Part 106, which prohibit discrimination and retaliation on the basis of sex by recipients of Federal financial assistance; 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 and retaliation on the basis of disability by recipients of Federal financial assistance; and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131, *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination and retaliation on the basis of disability by public entities. Prior to the completion of OCR's investigation, the District has voluntarily agreed to resolve the complaint pursuant to Section 302 of OCR's *Case Processing Manual* by entering into the below Resolution Agreement. This Resolution Agreement is not an admission of wrongdoing; the District explicitly denies any wrongdoing.

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 sex, and the District will promptly investigate all incidents and complaints of harassment. Harassing conduct may take many forms, including verbal acts and name calling; graphic and written statements, which may include use of cell phones 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, to ensure compliance with Title IX, Section 504 and Title II, the District voluntarily agrees to take the following actions:

POLICIES AND PROCEDURES

Notice of Nondiscrimination

1. By May 15, 2014, the District will draft a statement of nondiscrimination to comply with the requirements contained in regulations implementing Section 504 and Title IX, located at 34 C.F.R. §§ 104.7, 104.8, 106.8 and 106.9.

REPORTING REQUIREMENT: By May 30, 2014, the District will provide OCR with a copy of the statement for OCR's review and approval.

2. Within sixty (60) calendar days of receiving approval from OCR, the District will publish its statement of nondiscrimination in all sources where such statement should be located, including, but not limited to, the District's Student Behavior Code and Discipline Handbook and the District's website.

REPORTING REQUIREMENT: By July 30, 2014, the District will provide a copy of its revised Student Behavior Code and Discipline Handbook that includes its notice of nondiscrimination on the basis of disability and sex, and the name and/or title, address, phone number/email of the person(s) responsible for coordinating compliance with Section 504 and Title IX, and a link to the website page containing the notice. This requirement may be satisfied by posting the revised Student Behavior Code and Discipline Handbook on the District's website. When the Student Behavior Code is updated for the 2014 – 2015 school year, the revision will be printed therein.

Grievance Procedures

3. By May 30, 2014, the District will develop and submit to OCR for its review and approval draft grievance procedures to address discrimination and harassment complaints under Section 504, Title II and Title IX, alleged to have been committed by faculty, staff members, students, or third parties (such as members of the general public or vendors). The District will ensure that these procedures provide for the prompt and equitable resolution of all complaints and will include, at a minimum, the following:
 - a. notice to students, parents and employees of the procedures, including where complaints may be filed;
 - b. application of the procedures to complaints of discrimination (including harassment) carried out by employees, students or third parties;
 - c. provision for prompt, adequate, and impartial investigation of all complaints, including the opportunity for the complainant and subject of the complaint to present witnesses and other evidence;
 - d. designated and reasonably prompt timeframes for the major stages of the investigation;
 - e. written notification to the complainant and subject of the complaint of the outcome of the investigation; and
 - f. an assurance that the District will take steps to prevent the recurrence of any discrimination and harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

REPORTING REQUIREMENT: By June 15, 2014, the District will submit its grievance procedures to OCR for its review and approval.

4. Within 60 days of OCR's approval of the procedures developed in accordance with this item of the Agreement, the District will adopt and implement the procedures and will provide all faculty, staff and students as well as their parents or guardians with written notice regarding the procedures together with information on how to obtain a copy of the procedures. The District will make this notification through the District's website; electronic mail messages to faculty, staff and students as well as their parents or guardians; and employee and student handbooks.

REPORTING REQUIREMENT: Within 30 school days after the completion of Item 4, the District will provide OCR with documentation that it has implemented Item 4

above, including copies of the written notices issued to faculty, staff, and students as well as their parents or guardians regarding the procedures and a description of how the notices were distributed; copies of its revised employee and student handbooks; and a link to its webpage where the procedures are located.

District Statement Regarding Harassment

5. By August 31, 2014, the Superintendent and School Board will issue a statement to the District's students, parents and staff that will be printed in the District's newsletter, website, Student Behavior Code and Discipline Handbook and posted in prominent locations at the School, stating that the District does not tolerate harassment on the bases of disability and sex. The statement will encourage any student who believes that he or she has been subjected to harassment on the basis of disability or sex to report the harassment to the District, and note the District's commitment to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. The statement will include the appropriate contact information for the individual designated to receive complaints of harassment on the basis of disability or sex. The statement will warn that students or employees found to have engaged in acts of harassment on the basis of disability or sex will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension or expulsion for students or suspension or termination for employees. The statement will encourage students, parents and District staff to work together to prevent harassment on the basis of disability and sex. The District will distribute this statement in languages other than English, as necessary.

REPORTING REQUIREMENT: By September 1, 2014, the District will provide OCR with a copy of the statement referred to in Item 5, to include a description of the location(s) at which the statement was published.

TRAINING

6. Within 60 days of OCR's approval of the procedures developed in accordance with this Agreement, the District will initiate training for students, administrators, faculty and staff regarding its new procedures developed in accordance with Item 3 of this Agreement and the Section 504, Title II, and Title IX legal standards prohibiting harassment on the bases of sex and disability. The training will include age-appropriate examples of the types of conduct (e.g., physical, verbal, graphic, or written) which may create a hostile environment based on sex or disability, cover the District's obligation to eliminate a hostile environment of which it has notice, including constructive notice based upon involvement of an employee in creating the hostile environment; the obligation of faculty and staff to report any incidents of harassment under the listed statutes to School/District administrators. Training of administrators, faculty and staff will also provide instruction on how to recognize, prevent and respond appropriately to such harassment, and will cover the Section 504, Title II and Title IX prohibitions on retaliation against any individual for engaging in a protected activity.

REPORTING REQUIREMENT: By September 15, 2014, the District will provide OCR with a report confirming the initiation of the annual training, including: (a) the background and qualifications of the presenters/trainers; (b) a copy of the transcript(s)/materials used for the training; (c) a sign in log with name and title of all administrators, faculty and staff who completed the training; and (d) for student training, a count of students attending the training at each school.

INDIVIDUAL REMEDY

7. By May 30, 2014, the District shall conduct an investigation of the Teacher to determine whether the alleged November 26, 2012, "slap" incident involving the Student is the only allegation against the Teacher, or whether other similar allegations have been made against the Teacher. To the extent it is discovered that other similar allegations have been made against the Teacher, District-level personnel will investigate those allegations and will determine whether the allegations are corroborated. The determinations made after these investigations will be memorialized in writing and a copy will be forwarded to the Office for Civil Rights.

The District agrees that it will not place the Teacher in a position teaching students below a 5th grade age level. The District agrees that it will not place the Teacher in a position in which she works with students who are non-verbal, regardless of age. The District agrees that it will not place the Teacher in a teaching position where she will not have another adult in the classroom with her (for example, a co-taught classroom).

REPORTING REQUIREMENT: By June 30, 2014, the District will provide OCR with a copy of its written notice(s) to the Complainant, as well as any and all investigative materials outlined in Item 7, including, but not limited to, interview notes, consent forms, action plans and remedies provided.

8. By April 30, 2014, the District will, if consented to by the Complainant, offer to provide the Student with counseling from a licensed school psychologist to address the harm that resulted from the incidents of sexual and disability-based harassment. The psychologist will determine the scope and duration of the counseling, in consultation with the Complainant.

REPORTING REQUIREMENT: By May 30, 2014, the District will provide OCR with information indicating that counseling services are being provided to the Student.

9. By April 30, 2014, the District shall purge any disciplinary infractions from the Student's educational file that were issued by the Teacher.

REPORTING REQUIREMENT: By May 15, 2014, the District will provide OCR with information indicating that Item 9 was completed.

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 regulations implementing Title IX, at 34 C.F.R. § 106.31(a) and (b), Section 504, at 34 C.F.R. § 104.4(a) and (b) and Title II at 28 C.F.R. § 35.130(a) and (b).

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 regulations implementing Title IX, at 34 C.F.R. § 106.31(a) and (b), Section 504, at 34 C.F.R. § 104.4(a) and (b), and Title II at 28 C.F.R. § 35.130(a) and (b) which were at issue in this case.

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

District Representative

Date

Printed Name and Title