

**Resolution Agreement  
Broward County Schools  
OCR Docket Number 04-13-1336**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the District, pursuant to 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, which prohibit discrimination on the basis of disability. As a public educational entity, the District is also subject to the provisions of 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 based on disability by public entities. Accordingly, to ensure compliance with Section 504 and Title II and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions.

**Student Remedy**

1. By **January 16, 2014**, the District will conduct a review of the October 2013 reevaluation of the Student, to determine whether the evaluation was conducted through a process that comports with the Section 504 regulation and provide a written report of its findings. The review will be conducted by a District level official with knowledge of the Section 504 legal standards and will assess among other things, whether the 504 or IEP Team: considered appropriate evaluation materials, including medical/psychological information; considered all conditions which might substantially limit a major life activity; based its decision upon appropriate interpretations of the phrases, “substantially limits” and “major life activities;” and, considered whether the Student has an additional condition that might meet the definition of a disability even if the Student does not currently need special education or related services because of that condition. The review will also determine the rationale for any changes made in the Student’s IEP as a result of the October 2013 reevaluation.

**REPORTING REQUIREMENT:** By **January 30, 2014**, the District will provide OCR with documentation of the review conducted, including findings, a description of the reevaluation process that was utilized in October 2013, witnesses interviewed during the review and all supporting evidence considered.

2. By **January 30, 2014**, if the information obtained during the review under action #1 demonstrates that the October 2013 reevaluation of the Student was not conducted through a process that comports with the Section 504 regulation, the District will conduct a new reevaluation of the Student through an appropriate process and amend his IEP as appropriate based upon the new reevaluation.

**REPORTING REQUIREMENT:** By **February 13, 2014**, the District will provide OCR with documentation of the new reevaluation, including the meeting minutes, amended IEP and rationale for all decisions.

3. By **February 13, 2014**, the District will reconvene a new manifestation determination meeting to determine if the Student's behavior at issue in March 2013 was related to a disability, including any disability that the District had not identified, but had notice of, prior to the manifestation determination. In making the determination the District will consider all information that competent professionals would require, such as psychological evaluation data related to behavior, and relevant information that is recent enough to afford an understanding of the Student's behavior at the time of the misconduct.

**REPORTING REQUIREMENT:** By **February 27, 2014**, the District will provide OCR with documentation of the new manifestation determination including meeting notes/transcript, clearly indicating the reasons for their determination, and all information considered pursuant to action #3.

4. By **February 27, 2014**, if the District determines pursuant to action #3 that the Student's behavior was related to any disability, the District will expunge all records pertaining to discipline imposed upon the Student for the March 2013 incident.

**REPORTING REQUIREMENT:** By **March 13, 2014**, the District will provide OCR with documentation to indicate that the prior discipline was expunged.

5. By **February 27, 2014**, the District will determine if the Student is in need of compensatory services in light of the new manifestation determination, and if compensatory services are warranted, the IEP team will amend the Student's IEP to reflect the agreed upon services, and a time schedule for completing the provision of those services, and provide the services by no later than May 15, 2014.

**REPORTING REQUIREMENT:** By **March 13, 2014**, the District will provide OCR with documentation of the compensatory service determination including meeting notes/transcript, clearly indicating the reasons therefor, and all information considered pursuant to action #5, as well as the documentation of the schedule and type of services to be provided if such services were determined to be needed.

**REPORTING REQUIREMENT:** By **May 29, 2014**, the District will provide OCR with documentation showing that all compensatory services were provided, if appropriate.

### **Manifestation Determination Procedures**

6. By **January 16, 2014**, the District will revise its manifestation determination procedures and submit them to OCR for review and approval. The revised procedures will require that the District conduct manifestation determinations prior to implementing suspensions, expulsions or other exclusions that constitute a significant change in placement. The procedures will also require that the District conduct a manifestation determination

through a process that comports with the Section 504 regulation at 34 C.F.R. §104.35, and includes consideration of information that competent professionals would require, such as psychological evaluation data related to behavior, and relevant information that is recent enough to afford an understanding of the student's current behavior. The procedures will further provide that if, at the time of the manifestation determination, the District is put on notice that a student may have a previously unidentified disability, the student's 504 team (or IEP team) will evaluate the Student to determine if the student has an additional disability and if so, the manifestation determination will include consideration of whether the misconduct is a manifestation of that previously unidentified disability.

**REPORTING REQUIREMENT:** By **January 30, 2014**, the District will submit to OCR for its review and approval, the procedures developed in accordance with the above paragraph.

7. By **February 27, 2014**, or within 60 days after receiving written notification from OCR that the revised procedure is consistent with the requirements of Section 504 (Notification to Proceed), whichever is later, the District will:
  - A. Adopt and implement the procedure;
  - B. Make appropriate revisions to the student, faculty, and staff handbooks, the District's website, and/or any other place where the District publishes its procedures with regard to manifestation determinations;
  - C. Provide written notice of the procedure to students, faculty, and staff by posting it on the District's website, by providing written notice in all regularly issued District newsletters and other publications, and by any other effective means the District elects.

**REPORTING REQUIREMENT:** Within **30 days** of completing actions #7 A-C above, the District will provide OCR with documentation that should include, but will not necessarily be limited to, a copy of the notification placed on the District's website along with the web address for the notification; a copy of the student, and staff handbook revisions or inserts; and a list of every location where the District publishes its procedures regarding manifestation determinations.

### **Training**

8. By **March 13, 2014**, the District will contact OCR to schedule a mutually agreeable time for training by OCR of District and School staff responsible for conducting evaluations, reevaluations and manifestation determinations on the District's evaluation obligations under Section 504, particularly with regard to reevaluation in the context of discipline and manifestation determinations. Thereafter the District will provide the specified staff training on the foregoing topics on an annual basis.

**REPORTING REQUIREMENT:** Within **30 days** of the date of training by OCR, the District will provide OCR with the sign-in sheets showing the name and title of all staff members who attended the OCR training described in action #8.

9. **Within 60 days** of completing actions #7 A-C, the District will initiate annual training of District and School staff responsible for conducting evaluations, reevaluations and manifestation determinations on the District’s procedures that were revised pursuant to actions #6 and 7.

**REPORTING REQUIREMENT:** **Within 30 days** of the date of the staff training, the District will submit to OCR documentation demonstrating that the District conducted the training described above for action #9. The documentation shall include: (1) the date of the training (2) a sign-in sheet for attendees from the training outlined above, including the names and titles of those who attended, (3) a copy of all materials distributed at the training, and (4) the identity and qualifications of the person who conducted the training.

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. §104.35(a) and (b)(1)-(3), 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 regulation implementing Section 504, at 34 C.F.R. §104.35(a) and (b)(1)-(3), 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 a minimum of sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon signature of the District’s representative below.

/s/

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Superintendent or designee

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Date