

Resolution Agreement
Huntsville City School District
OCR Complaint #04-14-1014

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against Huntsville City School District (District), pursuant to 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), as amended, 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. 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. 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 Remedies:

1. The District will **immediately but by no later than April 3, 2014**, issue a letter to the Complainant that: rescinds the liability waiver it required the Complainant to sign regarding the afterschool program; invites the Student to return to the afterschool program at his home school with the provision of services needed for him to have access to the afterschool program, including services provided by a nurse or trained school personnel to attend to his diabetes related needs.

REPORTING REQUIREMENT: By **April 21, 2014**, the District will provide OCR with a copy of the letter required in Item 1 above, rescinding the waiver liability, inviting the Student to return to the afterschool program with the provision of the required services for his disability, to include a nurse or trained school personnel to attend to his diabetes related needs. The District will provide documentation regarding the services provided to the Student while in the afterschool program.

2. The District will **as soon as is practicable but by no later than April 15, 2014**, convene a meeting with a group of individuals who are knowledgeable about the Student, the meaning of the evaluation data, and the placement options to determine, through a process that comports with the Section 504 regulation at 34 C.F.R. §104.35, whether the Student is eligible for an Individual Education Program (IEP) or a Section 504 plan for the provision of special education and/or related aids and services. The District will provide the Complainant with notice of her procedural safeguards. If the team concludes that the Student is eligible, the team will then proceed to determine appropriate aids and services as well as determine if compensatory educational services are needed as related to the District's failure to appropriately evaluate the Student during the 2013-2014 academic year, and if so, will determine the type and schedule of services that will be provided.

REPORTING REQUIREMENT: By **April 21, 2014**, the District will provide a copy of the IEP or Section 504 plan if one is developed and the minutes or notes from that eligibility meeting, or, if applicable, any notice of ineligibility for special education services, the reasons for the ineligibility and a copy of correspondence with the Complainant regarding formal notice of her procedural safeguards.

3. **By April 21, 2014**, the District will submit to OCR for review and approval the Section 504 or IEP team's determination regarding the provision of compensatory educational services to the Student, including all documentation and other evidence that was considered by the team in reaching its determination, if the Student is deemed eligible for services. Upon OCR's approval of the determination, the District will amend the Student's IEP or Section 504 plan accordingly and submit a copy of the Student's educational plan to OCR by no later than **April 28, 2014**, as applicable.
4. **By May 30, 2014**, the District will provide all agreed upon compensatory educational services, if applicable, and submit to OCR documentation certifying that the educational services were provided to the Student.

Policies and Procedures Requirement:

5. The District assures that it will not discriminate on the basis of disability in the admission of students with disabilities to the afterschool program or other extracurricular activities and that it will not make categorical decisions, based on disability, concerning the admissions and participation of students with disabilities in the afterschool program or other extracurricular activities. By **June 9, 2014**, to ensure equal opportunity for students with disabilities including diabetes to the afterschool program or other extracurricular programming, the District will develop policies and procedures to determine on a case-by-case basis whether a student with a disability is qualified to participate in an extracurricular program and, if so, what services the student require to participate in a given program or activity. The policies and procedures should include that, upon request for a service or accommodation (if disability is not apparent), afterschool and extracurricular program personnel will consult with parent/guardian(s) and teacher(s) and review other data regarding the student with a disability and his/her needs to access a given extracurricular activity or programming outside of school hours. The policies and procedures will be submitted to OCR for review and approval.

REPORTING REQUIREMENT: By **June 25, 2014**, the District will provide a copy of the policies and procedures developed to ensure that students with disabilities have an equal opportunity to participate in the afterschool program and, upon approval by OCR, the District will immediately update its policies online (and in print versions for 2014-2015 school year); and implement the new policies and procedures for students with disabilities who are enrolled in the afterschool program.

Staff Training

6. By **August 28, 2014**, and annually, thereafter, the District will provide training to staff involved in the identification, evaluation and provision of services to students with disabilities, including those with diabetes, regarding the requirements of the Section 504 regulation during the regular school day and during extracurricular activities, including afterschool programs.¹

¹ Please see OCR's January 25, 2013 "Dear Colleague Letter" regarding students with disabilities in extracurricular activities linked at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>; and "Helping the Student with Diabetes Succeed: A Guide for School Personnel" a document developed by the Department of Health and Human Services, linked at <http://ndep.nih.gov/publications/PublicationDetail.aspx?PubId=97> (which have already been provided to the District).

REPORTING REQUIREMENT: By **September 19, 2014**, the District will provide OCR with an agenda of the training provided to staff consistent with Item 6 above; a copy of any handouts, including PowerPoint presentations or similar materials used during the training; the name, title, and qualifications of the person(s) conducting the training(s); and a sign-in sheet for those attending the training, including their name, title, and assigned school (if applicable) of each attendee; and the date of the training session(s).

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. 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 regulations set forth below.

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 Section 504 at 34 C.F.R. §§ 104.4 (a) and (b)(1)(iv)-(iv), 104.35; 104.37, and 104.38; and the Title II implementing regulations at 28 C.F.R. §§ 35.130(a) and (b) (1)(b)(i)-(iv),(7) and (8), which were at issue or arose as an issue during the investigation of this complaint.

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. §104.61, incorporating 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 Resolution Agreement will become effective immediately upon the signature of the Superintendent or his/her designee below.

/s/

3/27/14

Superintendent or Designee

Date