

**Resolution Agreement**  
**Madison County, Alabama School District**  
**OCR Complaint #04-14-1318**

The U. S. Department of Education, Office for Civil Rights (OCR) and the Madison County School District (District) enter into this agreement to resolve the allegation in the above-referenced complaint. This Agreement does not constitute an admission of liability or wrongdoing by the District. The District assures OCR that 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. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of 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.

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. OCR has not issued findings concerning issues of the above-referenced case number. This Agreement has been entered into voluntarily between the parties. Accordingly, to ensure compliance with Section 504 and Title II and to resolve the issues of OCR complaint #04-14-1318 the District agrees to take the following actions.

**Policies and Procedures**

1. **By December 15, 2018**, the District will, subject to review and approval by OCR, revise the policy addressing harassment on the basis of disability in the following manner:
  - a. Specify that the policy is applicable to complaints regarding discrimination or harassment of students by students, employees, or third parties and provide for sanctions that can be imposed on teachers or staff found to have engaged in discrimination or harassment;
  - b. specify that upon receipt of notice of harassment on the basis of disability the District will provide an appropriate response, including an investigation, regardless of whether the notice is received verbally or through a complaint submitted in writing, including on the District's complaint form;
  - c. provide that an investigative summary report will be mailed to both parties to a harassment complaint;
  - d. revise the definition of harassment to remove the language stating that harassment must include a "continuous pattern of intentional behavior" and specify that harassment creates a hostile environment for purposes of Section 504 or Title II if it 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; and
  - e. revise the definition of harassment to remove the word "substantially" from the phrase, *One type of impact is having the effect of "substantially interfering with the educational performance, opportunities or benefits of a student."*

**REPORTING REQUIREMENT: By December 30, 2018**, the District will submit to OCR for review and approval the above proposed revisions.

2. **Within 30 days after OCR’s approval of the revised policy in Item #1, the District will** adopt, publish and disseminate its revised harassment policy, including on its website and in its Student Code of Conduct, and begin implementation of the revised policy. Beginning with the 2018-2019 school year, the revised policy will be included in the Student Code of Conduct.

**REPORTING REQUIREMENT: Within 15 days of publishing its revised policy**, the District will submit to OCR its published policy including the location of where the policy was disseminated, and/or a link if posted on the District’s website.

3. **By December 15, 2018**, the District will, subject to review and approval by OCR, revise its “Procedures on Seclusion and Physical Restraint for All Students” or other policy addressing use of time-out rooms, sensory rooms or other rooms in which a student is placed alone without the freedom to leave, as necessary to require parental notice of the existence and possible use of such rooms; documentation and parental notice when a student is placed alone in such a room; and, for students with disabilities: a) in addition to any other limitations on the maximum duration of time-out, the duration of use of the room must be consistent with the student’s disability-related needs and determinations made by the student’s educational team, and b) when the reasons for use of the room, or the frequency, duration or other circumstances of such use, provide reason to believe that different or additional strategies are needed to address the student’s behavioral or other needs, the student’s educational team will convene to determine whether the student’s educational needs are being met and whether a reevaluation is needed.

**REPORTING REQUIREMENT: By December 30, 2018**, the District will submit to OCR for review and approval the above proposed revisions.

4. **Within 30 days after OCR’s approval of the revised policy in Item #3, the District will** adopt, publish and disseminate its revised policy, including on its website, and begin implementation of the revised policy.

**REPORTING REQUIREMENT: Within 15 days of publishing its revised policy**, the District will submit to OCR its published policy including the location(s) of where the policy was disseminated, and/or a link if posted on the District’s website.

### **Training**

5. **By February 15, 2019**, the District will conduct training of all administrative and teaching staff on the revised harassment policy and policy addressing use of time-out rooms, sensory rooms, etc.

**REPORTING REQUIREMENT: By March 1, 2019**, the District will submit to OCR documentation demonstrating the completion of the training for the appropriate faculty and administrators. Such documentation should include: the date(s) of the training session(s); a copy of the agenda for the training; the name, position, and credentials of the trainer(s); and an attendance sheet signed by the participants that indicates their names and titles.

**School's Use of Sensory, Time-Out or Other Room For Removal of Students**

6. **At least three times during each semester of the 2018-2019 school year**, District level staff will conduct an inspection at the School and a review of the School's practices to ensure that the School is not using a bathroom as a calming, sensory or time-out room for students with disabilities and that any rooms at the School in which students with disabilities are left alone for calming, time-out or other purposes allow for visual monitoring of students while they are in the room and are free of any items that might cause injury to a student.

**REPORTING REQUIREMENT:** By **January 1, 2019 and May 31, 2019**, the District will submit to OCR documentation of the above inspections at the School, including the name and title of the staff member who conducted the inspection, the number of times the relevant room or other space has been used, and the staff member's findings concerning the areas of inspection set forth in Item 6 above.

**Student-Focused Remedy**

7. **By November 30, 2018**, the District will contact the Student's parent/guardian in writing to invite them to a meeting or telephone conversation to discuss counseling, academic or other services that the Student may require to remedy any hostile environment that may have been created for the Student in the Teacher's class during the 2013-2014 school year. The Student's parent/guardian will be provided **30 days** to respond to the offer and if the offer is accepted, the meeting or telephone conversation will take place **within 60 days** after the date of the District's notice. The District will maintain documentation concerning the parent/guardian's response to the invitation and the meeting/telephone conversation with the parent/guardian, including all needs described by the parent/guardian, and all services requested by the parent/guardian. Counseling, academic or other services deemed appropriate, if any, will be provided by District staff by no later than **February 1, 2019**, and the District will not unreasonably refuse to provide services identified by the parent/guardian.

**REPORTING REQUIREMENTS:**

- (a) **By December 7, 2018** the District will provide OCR a copy of the written invitation sent to the Student's parent/guardian in accordance with Item #7 above.
- (b) **By January 15, 2019**, the District will provide OCR evidence of the parent/guardian's response to the District's invitation and if the invitation was accepted, the services requested by the parent/guardian, the services identified based upon the discussion with the parent/guardian and if any proposed services were rejected by the District, and the reasons for the rejection.
- (c) **By March 1, 2019**, the District will provide documentation to OCR of the dates, times and locations that identified services were provided, a description of what was provided, and the name(s) of the service provider(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.

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. Upon the District’s satisfaction of the commitments made under this Agreement, OCR will close the 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 sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon signature of the Superintendent or Designee below.

\_\_\_\_\_  
Superintendent or Designee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name