

**Resolution Agreement
DeKalb County School District, GA.
OCR Complaint #04-14-1508**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the DeKalb 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 by recipients of Federal financial assistance (FFA) from the Department 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 prohibits discrimination on the basis of disability by public entities. To ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions.

Section 504 Policy and Procedures

1. By April 13, 2015, the District will revise its Section 504 referral and evaluation procedures to comport with the regulation implementing Section 504 at 34 C.F.R. §104.35 and submit the revised procedures for OCR's approval. The revisions will clarify that the District does not require parents or guardians to obtain and submit medical documentation in order for the District to conduct evaluations for students to receive Section 504 services and clarify that the District may not, because of the use of the SST or similar interventions, fail to evaluate a student for Section 504 eligibility within a reasonable time or fail to develop and implement a Section 504 plan for students determined to be eligible for services under Section 504.

REPORTING REQUIREMENT: By April 20, 2015, the District will submit the revised procedures to OCR for its review and approval.

2. By June 8, 2015, or within 30 days of receipt of OCR's approval, whichever is later, the District will (a) adopt, publish, and disseminate the revised Section 504 referral and evaluation procedures; and (b) provide notification to all District staff members of the revisions to the procedures and their responsibility to ensure that the referral and evaluation procedures are implemented in a timely manner.

REPORTING REQUIREMENT: Within 30 days of receiving OCR's approval, the District will provide evidence to OCR showing that the revised procedures were published and disseminated and that notification of the revised procedures was provided to District staff members. The District will also provide OCR with copies of the revised procedures and demonstrate how they were adopted.

Student-Focused Remedies

3. By April 20, 2015, after providing proper written notice to the Student's parent and receiving written consent, the District shall initiate an evaluation consistent with the Section 504 implementing regulation at 34 C.F.R. §§ 104.35 (504 Evaluation). The District's written notice to the Complainant shall include an explanation regarding the 504 evaluation process, including an affirmative statement that the Complainant does not need to provide medical documentation prior to the District's evaluation.

REPORTING REQUIREMENTS: By May 11, 2015, the District shall provide OCR with evidence that the Student was evaluated in accordance with the procedural requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35 and 104.36. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, and the information considered. The District will also provide OCR with a copy of the written notice described above in Item #3.

By May 25, 2015, if the Student is determined to have a disability, the District will also conduct a Manifestation Determination Review (Manifestation Determination¹) to determine whether the behaviors for which the Student was disciplined during the 2013-2014 school year constituted a manifestation of the Student's disability. The Manifestation Determination will be conducted through a process that comports with the Section 504 implementing regulation at 34 C.F.R. § 104.35 and 104.36. The Section 504 team meeting notes will describe its Manifestation Determination findings for each discipline occasion. If the Section 504 team finds that any of the Student's conduct was a direct result of his disability, which led to discipline, the Student's discipline record will be expunged of the disciplinary record, and the District will consider the change in placement resulting from the discipline, including any missed instructional time, in determining whether compensatory services are required, as referenced in Item 4 of this Agreement.

REPORTING REQUIREMENTS: By May 5, 2015, the District shall provide OCR with evidence that the Student received his Manifestation Determination evaluation in accordance with the procedural requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35 and 104.36. The documentation submitted shall include documentation showing the list of disciplinary offenses and number of days excluded for which a manifestation determination meeting was conducted, the participants in the meetings, an explanation for decisions made, and the information considered.

4. By May 11, 2015, if the Student is determined to have a disability, after providing proper written notification to the Student's parent, a group of knowledgeable persons, including the parent, will also determine whether the Student needs compensatory and/or remedial

¹ The District will conduct a Manifestation Determination meeting for each disciplinary offense that occurred during the 2013-2014 school year in which the Student was excluded for more than 10 consecutive school days or where the Student was excluded for a series of suspensions that were each 10 days or fewer in duration but aggregated to more than 10 days in that school year.

services as a result of: (a) the District's failure to provide appropriate regular and/or special education or related services during the 2013-2014 school year; and (b) depending on the outcome of Item #3, the missed educational services in excess of 10 days that resulted from discipline for behaviors that were a manifestation of the Student's disability. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond June 19, 2015. The District will provide the Student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENTS:

- (a) Within 2 weeks of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Student. Prior to approving the District's decision and plan for providing the proposed services, OCR will review the documentation to ensure that the District, in making these determinations, met the procedural requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35 and 104.36.
 - (b) By July 20, 2015, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).
5. For all of the actions required in Items #3 through #5, the District will provide the Student's parent/guardian notice of the procedural safeguards as is required by the Section 504 implementing regulation at 34 C.F.R. § 104.36, including the right to challenge the 504 team's determination through an impartial due process hearing.

REPORTING REQUIREMENTS: By July 20, 2015, the District will provide OCR with evidence that it provided the notices described in Item #5 to the Complainant.

Training Remedies:

- 6. By August 10, 2015, and thereafter on an annual basis, the District will provide training to appropriate District staff, including administrators, Section 504 Coordinators, Counselors and teachers, regarding the requirements of Section 504 and Title II related to conducting evaluations in a timely manner; clarification that parents or guardians are not required to obtain medical documentation prior to an evaluation and that the District may not, because of the use of the SST or similar interventions, fail to evaluate a student for Section 504 eligibility within a reasonable time; and, the parent/guardian's right to due process.

REPORTING REQUIREMENT: By August 17, 2015, the District shall provide evidence that training was provided as described above in Item #6. Documentation provided by the District will also show the names and positions of the District employees who participated in the training session, an agenda, and information on the background and qualifications of the trainer with respect to Section 504 and Title II.

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 Section 504 and its implementing regulation at § 104.35(a), and Title II and its implementing regulation at 28 C.F.R. § 35.130, which were at issue in this case.

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 Section 504 and its implementing regulation at § 104.35(a), and Title II and its implementing regulation at 28 C.F.R. § 35.130, 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.

Superintendent or designee

Date