

Resolution Agreement  
Tuscaloosa County School District  
OCR Docket #04-14-1649

Tuscaloosa County School District (District) agrees to resolve the allegation of discrimination on the basis of disability contained in complaint number 04-14-1649 filed with the U.S. Department of Education, Office for Civil Rights (OCR). The District submits this Resolution Agreement (Agreement) to ensure compliance 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 at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

**Policies and Procedures**

**Action Item 1 - 504 Evaluations**

By February 4, 2015, the District will revise its Section 504 Reference Manual proscribing that the referral, evaluation and placement processes will be completed within 60 days.

**Reporting Requirement:**

- a) By February 25, 2015, the District will provide OCR with copies of all revised documents, manuals, and links to webpages.
- b) By April 24, 2015, or within 30 days of OCR approval of the documents described in Item #1 (whichever is later), the District will publish the documents approved by OCR.
- c) By May 15, 2015, the District will provide OCR with copies of all published documents, manuals, and links to webpages described in Item #1.

**Action Item 2 - Homebound**

By February 4, 2015, the District will revise its Homebound Manual and Application Forms (and any other documents containing information proscribing the maximum homebound educational services afforded to students) to state that, for students with disabilities or students suspected of having a disability, the eligibility requirements for homebound services and the services that will be provided during homebound will be made exclusively by a Section 504 team or IEP team based on the individual needs of the student and will not be subject to the District's existing restrictions for homebound services that may apply to students who are not disabled and not suspected of having a disability (e.g., expected absence of at least four (4) weeks eligibility requirement). Further the policy will be revised to provide for notations in the student's IEP or 504 Plan to include applicable HB educational instructional services, and any other applicable services identified by the IEP or 504 Plan.

**Reporting Requirements:**

- a) By February 25, 2015, the District will provide OCR with copies of all revised documents, manuals, and webpages.
- b) By April 24, 2015, or within 30 days of OCR approval of the documents described in Item #2 (whichever is later), the District will publish the documents approved by OCR.
- c) By May 15, 2015, the District will provide OCR with copies of all published documents, manuals, and links to webpages described in Item #2.

**Action Item 3 - Individualized Placement Decisions**

By March 16, 2015, the District will provide proper written notice to the students' parent/guardian that a group of knowledgeable persons, including the parent/guardian, will determine whether the student needs compensatory and/or remedial services as a result of the District's failure to make individualized determinations for HB services. The 504 or IEP team as applicable will: (a) review the homebound service plans for all students who either applied for such services or were deemed eligible for services, during school year 2012-2013 and school year 2013-2014, to ensure that those placement decisions took into account whether those students were disabled or were suspected of having a disability, (b) for those students with disabilities or suspected of having disabilities, ensure that the placement decision (including eligibility and educational services) were made by the students' Section 504 or IEP teams, and (c) for those students with disabilities or suspected of having disabilities, who did not receive an individual determination as described above in Item #3(b), the District will convene the students' respective Section 504 or IEP teams to make individual determinations regarding their homebound eligibility and homebound services. If it is determined that students were not receiving the appropriate homebound services, the Section 504 or IEP team will also determine what compensatory educational services the students need. If the Section 504 or IEP team determines that compensatory educational services are needed, if so, within 1 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 8, 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 Requirement:**

- 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(s). OCR will, prior to approving the District's decision and plan for providing the proposed services, review the

documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35 and 104.36, in making these determinations.

#### **Action Item 4 - Individual Remedies**

By January 15, 2015, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide appropriate regular and/or special education or related services for the four (4) months of January, February, March and part of April 2014, in which the Student had not been determined eligible for 504 services. If so, within 1 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 the end of school year 2015-2016. The District will provide the Student's parents/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 of decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35 and 104.36, in making these determinations.
- b) By May 15, 2015, or within 15 days of the completion of the compensatory and/or remedial services, 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 names(s) of the service provider(s).

#### **Action Item 5 - Training**

By August 10, 2015, the District shall initiate annual training of District administrators, faculty and staff involved in: (a) the referral, eligibility, evaluation and placement of students under a 504 Plan regarding the new procedures developed in accordance with this Agreement and Section 504's requirement that students with disabilities and students suspected of having a disability receive an evaluation and eligibility determinations for services under a 504 Plan be made within a reasonable timely manner within 60 days. The training should include examples of the various ways the District can become aware of the need to evaluate a student, including staff observations, direct parent or staff referral, and other information that should cause staff to reasonably suspect the student may need special education or related services because of a

disability. Additionally the District will ensure that all applicable faculty and staff are trained on its revised and published 504 reference manual. District staff will also be trained on the obligation to provide procedural safeguards and evaluation information if a Section 504 evaluation process is requested by a parent but refused because the District does not believe the Student needs or may, because of a disability, need special education or related services; and (b) determining and implementing homebound services applicable faculty and staff involved in its homebound process and/or Section 504 or IEP processes, regarding the new procedures developed in accordance with this Agreement and Section 504's requirement that students with disabilities and students suspected of having a disability receive individualized assessments for all placement decisions, including the provision of homebound services.

**Reporting Requirement:** By August 24, 2015, the District will provide OCR with a report confirming the initiation of the training sessions described in Item #4, including: (a) the background and qualifications of the presenters/trainers; (b) a copy of the materials used for the training; and, (c) a sign in log with name and title of all administrators, faculty and staff who completed the training.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, and 104.35; and Title II, at 28 C.F.R. § 35.130, which were at issue in this case. The District also 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. §§ 104.33, 104.34 and 104.35; 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 has been entered into voluntarily by the District and does not constitute an admission by the District that it is not in compliance with Section 504 or Title II or their implementing regulations.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title