



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
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Resolution Agreement
Montgomery County School District
OCR Complaint #04-14-1700

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of Montgomery County Schools, (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 and Title II of the American 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. To ensure compliance with Section 504 and Title II, the District voluntarily agrees to take the following actions:

Policies and Procedures

By March 27, 2015, the District will revise or develop a Homebound Instruction Policy 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 or Individualized Education Program (IEP) team based on the individual needs of the student and will not be subject to the District's existing restrictions for homebound services (e.g., 4 hours maximum teacher contact per week) or any requirements that students must be absent for 30 consecutive days before receiving homebound services.

REPORTING REQUIREMENT: By April 15, 2015, the District will provide OCR with a copy of its homebound instruction policy for review and approval.

By May 15, 2015, or within 30 days of OCR's approval of the policy described in Item #1 (whichever is later), the District will publish the documents approved by OCR in any applicable written publications and on its website.

REPORTING REQUIREMENT: By **May 30, 2015, or within 15 days of completing Item #2** (whichever is later), the District will provide OCR with copies of all published documents, manuals, and links to webpages.

Student Focused Remedies

By March 6, 2015, after providing proper written notice to the Student's parent/guardian, the District will convene a group of knowledgeable persons, including the parent/guardian, to determine whether the Student is eligible for regular or special education and/or related aids and services as a student with a disability. If so, within one week of its determination, the group will develop a plan for providing timely services to the Student, including who will provide the services, when the services will be provided, and the start and projected end dates of the services. 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: By **March 13, 2015**, the District will provide OCR with documentation of the IEP or Section 504 meeting, including a copy of the procedural safeguards provided to the Student's parent/guardian. The documentation submitted to OCR shall identify the participants in the meeting, an explanation for decisions made, the information considered, a copy of the Student's evaluation report, a copy of the minutes of the meeting held to determine whether the Student is eligible for services to meet her individual educational needs, and a description of the services that will be provided to the Student, if such services are determined to be necessary. If the Student is determined to be ineligible for related aids and services, the District will provide documentation that supports the determination.

Student's Compensatory Education

By March 6, 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 from spring 2014 through the current school year. 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 **May 29, 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:

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. 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. §§ 104.34, 104.35 and 104.36, in making these determinations.

By **May 29, 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).

Other Student Remedies

6. **By March 27, 2015**, the District will: (a) review the homebound service plans for all students who either applied for such services or were deemed eligible for services during the 2013-2014 and 2014-2015 school years to ensure that those placement decisions took into account whether those were students with disabilities or suspected of having a disability, (b) for those students with disabilities or suspected of having disabilities (Other Homebound Students), ensure that the placement decision (including eligibility and number of hours of 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, the District will convene the students' respective Section 504 or IEP teams to make individual determinations regarding their homebound eligibility and hours of homebound service.

REPORTING REQUIREMENTS: By April 30, 2015, the District will submit to OCR, for its review and approval, documentation showing implementation of Item #6 above, including a list of all students with disabilities or suspected of having disabilities for whom a review was conducted, a copy of any meeting minutes, an explanation of the District's determinations concerning whether the students' placement decisions had been made through a proper process with supporting reasons and all newly created or modified Section 504 plans or IEPs.

Other Students' Compensatory Education

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

www.ed.gov

7. By **March 27, 2015**, for each of the Other Homebound Students, 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 any failure to provide appropriate regular and/or special education or related services from spring 2014 through the current school year. 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 **May 29, 2015**. The District will provide the students' parents/guardians 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 students receiving homebound services. 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. §§ 104.34, 104.35 and 104.36, in making these determinations. Should the District determine that no compensatory education or remedial services are necessary, the District will provide a written explanation of the reasons for that determination, along with supporting documentation
- b. By **May 29, 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).

Training

8. By **August 1, 2015**, the District shall initiate annual training of District administrators, 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 in compliance with 34 C.F.R. §§ 104.34, 104.35, and 104.36, including the provision of homebound services.

By August 1, 2015, the District shall initiate annual training for its Special Education Director and Section 504/Title II Coordinator(s) as well as any school staff involved in the evaluation of students with disabilities or those suspected of having disabilities, regarding the requirement of Section 504 to provide timely evaluations of those students in compliance with 34 C.F.R. § 104.35.

REPORTING REQUIREMENT: By August 31, 2015, the District will provide OCR with a report confirming the initiation of the training sessions described in Item #8, including: (a) the background and qualifications of the presenters/trainers; (b) a copy of the agenda and materials used for the training; c) dates of the training; and, (d) a list of attendees, including the title of all administrators, faculty and staff who completed 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. §§ 104.33(a) and (b), 104.35(a)-(d), and 104.36, and the Title II implementing regulation, at 28 C.F.R. § 35.130(a) and (b)(1)(iii).

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 Section 504 implementing regulation, at 34 C.F.R. §§ 104.33(a) and (b), 104.35(a)-(d), and 104.36, and the Title II implementing regulation, at 28 C.F.R. § 35.130(a) and (b)(1)(iii), 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