

RESOLUTION AGREEMENT
Lee County School District, Florida
OCR Complaint No. 04-15-1014

The Lee County School District (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 04-15-1014. 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 at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

Pursuant to Section 303(b) of OCR's Case Processing Manual, to resolve the issues of this investigation, the District agrees to implement the following corrective actions.

1. **If the Student still has Exceptional Student Eligibility and has not yet reached age 21 or otherwise "aged out" from educational services under state law, then by November 26, 2018,** the District will extend an offer in writing to the Student and his parent or guardian by letter sent via first class mail, certified mail, and by electronic mail to the most current addresses provided to the District inviting the Student to re-enroll in the District at his prior school or any other school of his choice, and notify the Student's parent or guardian that the District can evaluate the Student with respect to eligibility for accommodations under Section 504 and need for compensatory and/or remedial services. The notice provided to the parent or guardian will include a document to be returned to the District indicating whether or not they wish to re-enroll and whether they consent to an evaluation.

If, however, the District learns the Student is no longer eligible for educational services under state law, then Item 1 and Item 2 below are inapplicable.

Reporting Requirement:

Within 3 weeks of sending the correspondence, the District will provide OCR with a copy of the letter, email, and any other documents related to the offer to re-enroll, including any documentation reflecting the parent, guardian, or student's response to this offer to re-enroll.

Within 2 weeks of certification or a statement from the Student's parent or guardian with respect to consent to evaluating the Student, the District will submit to OCR documents establishing when the Student will be evaluated, including a date for the evaluation, or whether the parent or guardian chose not to give consent for the District to evaluate the Student for the 2018-2019 school year.

2. **If the Student still has Exceptional Student Eligibility and has not yet reached age 21 or otherwise “aged out” from educational services under state law, then by December 21, 2018,** after providing proper written notice to the Student’s parent/guardian, the District will convene a group of persons knowledgeable about the Student, making all reasonable efforts to include the parent/guardian, with the purpose of developing a plan for providing compensatory and/or remedial services to the Student for the time period the Student did not receive appropriate regular and/or special education or related services regarding his daily communications regarding assignments and homework and the impact of any missing or ineffective communications from August 2014 through the date of the Student’s withdrawal from the District. The group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond March 8, 2019. The District will provide the Student’s parent/guardian with notice of the procedural safeguards, including the right to challenge the group’s determination through an impartial due process hearing.

Reporting Requirement:

Within one week of the meeting, the District will submit to OCR a copy of the meeting minutes or similar documentation from the meeting, including an explanation for decisions made, a description of and schedule for providing compensatory and/or remedial services (if any) to the Student, the notice of procedural safeguards, the written invitation to the Student’s parent/guardian, and a list of meeting attendees. OCR will review the documentation submitted to ensure that the District met the procedural and other requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations.

Within 10 calendar days after receiving OCR’s approval, the District will provide the Student’s parent/guardian with written notice of the outcome of the meeting, including an explanation for decisions made and a description of and schedule for providing compensatory and/or remedial services (if any) to the Student. The District will provide a copy of this written notice to OCR.

By April 5, 2019, 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

3. **By September 15, 2019,** the District provide training to administrators, teaching staff, special education staff, and Section 504 staff at XXXXXXXXXXXXXXXX (the School) on the District's obligations under Section 504 and Title II to evaluate students suspected of having a disability for eligibility under Section 504, provide a free and appropriate public education (FAPE) to eligible students under Section 504. This training will include appropriate training regarding the need to implement a student’s Section 504 Plan or Individualized Education Program with fidelity. Recent Section 504 training required by OCR in previously executed Resolution Agreements meeting the above requirements

may satisfy this item. OCR can also provide such training under this item if requested by the District, and if requested, the District will coordinate with OCR of the proposed dates, times, and location for the training to be conducted under this item.

Reporting Requirement:

If training by OCR is requested, then **within 15 days of the completion of the training session under Item #3**, the District will provide OCR with a log with names and titles of all faculty, employees, and administrators who attended the training.

If training by OCR is not requested, then **by October 15, 2019**, the District will submit to OCR documentation demonstrating the completion of the training for the appropriate District faculty, staff and administrators from the School. Such documentation should include the date(s) of the training session(s); a copy of the agenda of the training; the name, position, and credentials of the trainer(s); an attendance sheet signed by the participants that indicates the names and titles; and a copy of the presentation.

The District understands that by signing this Agreement, it agrees to provide the foregoing 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, 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 regulation implementing Section 504 at 34 CFR § 104.33(b), and Title II, 28 C.F.R. § 35.130, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close 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.

This Agreement will become effective immediately upon the signature of the District's representative below.

By: _____ Date: _____
Superintendent or Designee