

**Hillsborough County School District
Complaint Number 04-15-1023
Resolution Agreement**

Hillsborough County School District (District) submits this Resolution Agreement (Agreement) to resolve complaint number 04-15-1023 filed with the U.S. Department of Education, Office for Civil Rights (OCR) and 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.

Section 504 Plan – Evaluation:

1. By **May 22, 2015** the District will send the Complainant (via certified mail, return receipt requested) written correspondence inviting the Complainant to re-enroll the Student. The notice will advise the complainant that the District will convene a meeting of a group of knowledgeable persons, as defined by Section 504 to further evaluate the Student, review her placement and determine whether the Student should receive compensatory services.
2. By **July 15, 2015**, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian, after obtaining consent, the District will further evaluate the Student, using a process that comports with the Section 504 regulation, to determine whether the Student has an additional disability or needs additional special education or related services to meet her disability-related needs and if so, revise the Student's plan or create a new plan as necessary to provide the Student a free appropriate public education. 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. If the Complainant opts to return the Student to the District, the District will implement the plan.

Reporting Requirements: By **July 22, 2015**, the District will submit to OCR documents demonstrating that it has further evaluated the Student and created or revised the Student's plan, The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and copies of any documents related to the evaluation/eligibility determination (if any) to the Student.

Section 504 Plan – Compensatory Services:

3. By **July 15, 2015**, after providing proper written notice to the Student's parent/guardian, after obtaining consent, 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 further evaluate the Student or to provide appropriate regular and/or special education or related services since September 16, 2014. 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 three months from the date the Student returns to the District. 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. If the Student returns to the District, the District will provide any compensatory and/or remedial services deemed necessary.

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. 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.
- b) By **December 1, 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).

Section 504 --Training of School Staff

4. By **September 15, 2015**, and thereafter on an annual basis the District will provide training to its staff, including administrators and teachers, regarding the requirements of Section 504, Title IX, and Title II, related to conducting timely evaluations when a student is suspected of having a disability; not requiring signed medical forms or records as a precondition to an evaluation; ensuring the implementation of education plans by staff; and, recognizing, reporting, preventing disability harassment and sexual harassment.

Reporting Requirement: By **September 30, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training pursuant to this provision of the agreement. The documentation shall include: (1) the date of the training session; (2) a list of names and titles of District employees who participated in the training session; (3) a description of the presenter's background and qualifications with respect to knowledge of Section 504 and Title II; and (4) a copy of the agenda and the training materials disseminated.

Section 504 –Revision of Evaluation Procedures

5. By **June 30, 2015**, the District will revise their evaluation procedures to clarify that when the District has reason to believe that a student needs or may need special education or related services because of a disability, it cannot require submission of medical documentation from parents or guardians as a precondition for initiating an evaluation of a Student.

Reporting Requirement: By **June 30, 2015**, the District will provide documentation to OCR demonstrating that the District has revised its evaluation procedures to as specified in this Item of the Agreement.

Harassment Policy

6. The District will include the elements set forth below in the Anti-harassment Policy and Procedures currently under revision in connection with OCR complaint #04-12-1030. **By September 30, 2015**, the District will, subject to OCR's review and approval, revise its harassment policy, including the following, consistent with 28 C.F.R. § 35.130 and 34 C.F.R. § 106.8:
 - a. a statement of the school's jurisdiction over Title IX complaints;
 - b. adequate definitions of sexual harassment (which includes sexual violence) and an explanation as to when such conduct creates a hostile environment;
 - c. application of the grievance procedures to complaints filed by students or on their behalf alleging harassment carried out by employees, other student, or third parties;
 - d. reporting policies and protocols, including provisions for confidential reporting;
 - e. identification of the employee or employees responsible for evaluating request for confidentiality;
 - f. notice that Title IX prohibits retaliation;
 - g. notice of a student's right to file a criminal complaint and a Title IX complaint simultaneously;
 - h. notice of available interim measures that may be taken to protect the student in the educational setting;
 - i. the evidentiary standard that must be used (preponderance of the evidence) (*i.e.*, more likely than not that sexual violence occurred) in resolving a complaint;

- j. notice of potential remedies for students;
- k. notice of potential sanctions against perpetrators; and
- l. sources of counseling, advocacy, and support.

Reporting Requirement: Upon approval and publication of the procedures under OCR complaint #04-12-1030, the District will submit to OCR for its review a copy of the revised harassment policy in accordance with the above paragraph.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. 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 regulations implementing Section 504, at 34 C.F.R. §§ 104.4, 104.7, 104.8, 104.33, and 104.35, and Title II, at 28 C.F.R. §§ 35.106, 35.107, 35.130, which were at issue in this case.

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 regulation implementing Section 504, at 34 C.F.R. §§ 104.4, 104.7, 104.8, 104.33, and 104.35, and Title II, at 28 C.F.R. §§ 35.106, 35.107, 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 Resolution Agreement will become effective immediately upon the signature of the Superintendent or his/her designee below.

Jeff Eakins
Acting Superintendent
Hillsborough County School District

Date