

**Resolution Agreement
Marion County Public Schools, FL
OCR Docket Number 04-15-1031**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed on behalf of two students (Students)¹ against the Marion 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 at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability, and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and its implementing regulation, 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin.

After the completion of OCR's investigation, the District agreed to enter into this Resolution Agreement (Agreement) to resolve the areas of noncompliance pertaining to the District's retaliation against the Complainant; the District's policies and procedures; and, the District's failure to provide one of the student's on whose behalf the Complainant filed the complaint with Free and Appropriate Public Education (FAPE). Accordingly, to ensure compliance with Section 504, Title II and Title VI and their implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions.

Section I: Student-Focused Remedy

1. The District agrees to send proper written notice to the Students' parent/guardian, via certified mail, return receipt requested, informing the parent/guardian that the District will convene a meeting of a group of knowledgeable persons, as defined by Section 504, for each Student.

Reporting Requirement:

By August 30, 2015, the District will provide OCR with a copy of all documents used to provide notice to the Complainant of the 504 meeting.

The District will take the actions described in **Section I, Parts 2-3, below**, within thirty (30) calendar days of the date of the Students' enrollment in the District for the 2015-2016 school year:

2. The District will convene of a group of knowledgeable persons, as defined by Section 504, for each Student to review information from a variety of sources, which will be documented and carefully considered, and further evaluate the Students, using a process that comports with the Section 504 regulation, to determine whether the Students need additional special education or related services to meet their disability-related needs. The group will also

¹ Students 1 and 2 are identified by name in the November 20, 2014, letter sent by OCR to the District regarding this Complaint.

consider whether Student 1 needs compensatory and/or remedial services as a result of his delayed enrollment for the 2014-2015 school year and whether Student 2 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 October 2014. The District will provide the Students' 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 October 1, 2015, the District will submit to OCR a report documenting the date on which a group of knowledgeable people was convened to consider the Students' placement, related aids and services and possible need for compensatory services, in accordance with Section 504.

3. If the group identified in Section I, Part 2 determines that the Students need compensatory and/or remedial services, **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 **December 31, 2015**.

Reporting Requirement:

Within 2 weeks of the decision as to whether compensatory and/or remedial services are needed for the Students, the District will submit for OCR's review documents supporting the group's decision. The documentation submitted shall include documentation listing the participants in the meeting and their titles, the information considered, an explanation for decisions made, copies of any documents related to the evaluation/eligibility determination (if any) and schedule for providing any compensatory and/or remedial services (if any) to the Students. OCR will, prior to approving the District's decision and the plan for providing the services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504 in making its determinations.

By January 15, 2016, the District will provide documentation to OCR of the dates, times and locations that the compensatory and/or remedial services were provided to the Students, a description of what was provided, and the names of the service provider(s).

Section II: Section 504 -- Training of School Staff

4. By **September 30, 2015**, the District will make School staff² available for training by OCR concerning Section 504 and Title II as it applies to determining whether a student's educational needs are still being met following allegations of bullying or harassment on any basis, and recognizing, reporting, and preventing disability-based harassment. Annually thereafter the District will conduct similar in-service training for the School staff. Nothing in this Agreement is intended to preclude the District from addressing the required training topics set forth in this Agreement into one training session to meet the requirements of Sections II and III of this Agreement.

Reporting Requirement:

By **October 15, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training of School staff pursuant to this provision of the agreement. The documentation shall include: (1) the tentative dates of the yearly training session(s); (2) a list of names and titles of School employees who will participate in the training session(s); and (3) a description of the presenter's background and qualifications with respect to knowledge of Section 504 and Title II.

Section III: Anti-Retaliation -- Training of School Staff

5. By **September 30, 2015**, the District will make School staff, in addition to bus drivers and bus aides, available for training by OCR concerning the requirements of Section 504 and Title II, related to the prohibition against retaliation, harassment, coercion, intimidation, or discrimination against any individual because he or she has filed a complaint or participated in the complaint resolution process. Annually thereafter the District will conduct similar in-service training for the School staff identified above.

Reporting Requirement:

By **October 15, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training of School staff pursuant to this provision of the agreement. The documentation shall include: (1) the tentative dates of the yearly training session(s); (2) a list of names and titles of School employees who will participate in the training session(s); and (3) a description of the presenter's background and qualifications with respect to knowledge of Section 504 and Title II.

² As used in this Agreement, the term "School staff" includes the School administrators, and instructional and counseling personnel, to include, but is not limited to, Principals, Assistant Principals, Counselors, Deans of Students, Academic and ESE Coaches, and ESE Liaisons at the School.

Section IV: Section 504 -- Disability Harassment Policy

6. **By October 1, 2015**, the District will, subject to OCR’s review and approval, revise the District’s Statement of Non-Discrimination, Bullying and Harassment Policy 2.15, Student Code of Conduct Student Grievance Policy, and 504 Grievance Procedure as follows:
- a. Revise the term “handicapping condition” to disabling condition and omit the statement “except as provided by law” in the District’s Notice of Non-Discrimination;
 - b. Clarify that the grievance policies and procedures are applicable to students, employees, and third parties;
 - c. With respect to each of the grievance policies and procedures, make clear that participation in any informal process is voluntary;
 - d. For each of the grievance policies and procedures, include a provision stating there will be an adequate, reliable, and impartial investigation, including information regarding how the District will investigate an allegation of harassment and discrimination, such as interviewing relevant witnesses and gathering facts;
 - e. Remove any provisions that state that students or others who make false reports of bullying or harassment will be penalized as this could have a chilling effect on individuals who may file a complaint in good faith that is later found to be without merit;
 - f. Designate timeframes for major stages of the each of the applicable grievance processes;
 - g. State that written notice of the outcome of the complaint will be provided to both parties; and
 - h. Provide an assurance that the District will take steps to correct the discriminatory effects of discrimination or harassment on the student and others, if appropriate.

Reporting Requirement:

By October 15, 2015, the District will submit to OCR for its review and approval, the revised Non-Discrimination Statement, the Bullying and Harassment Policy 2.15, the Student Code of Conduct Student Grievance Policy, and the Section 504 Grievance Procedure, in accordance with the above paragraph.

7. Within 30 days after receiving written notification from OCR that the Non-Discrimination Statement, the Bullying and Harassment Policy 2.15, the Student Code of Conduct Student Grievance Policy, and the Section 504 Grievance Procedure, as revised in accordance with Item 4 above, are consistent with the requirements of Section 504 and Title II, the District will publish the revised procedures in its student, parent, and staff handbooks and other guidance related to Section 504, the District’s website, and/or any other place where the District publishes its procedures.

Reporting Requirement:

By November 15, 2015, or within 60 days after receiving the notification from OCR referenced in Item 4, the District will submit to OCR information documenting the District's implementation of Item 4 above. Such documentation should include, but will not necessarily be limited to, a copy of the notification placed on the District's website along with the web address for the notification; a copy of the student, parent, and staff handbook or guidance revisions or inserts; and a list of every location where the District publishes its procedures.

Section V: Training on the Revised Bullying and Harassment and Student Grievance Policies

8. **By November 15, 2015**, the District will provide training to District staff³ on the revised Bullying and Harassment Policy and the Student Grievance Policy Beginning with the 2015-2016 school year, the foregoing training will be provided by the District annually to the personnel identified above.

Reporting Requirement:

By December 18, 2015, the District will provide documentation to OCR demonstrating that the District has conducted training pursuant to this Item. The documentation shall include: (1) the date of the training session; (2) report of the personnel who attended the training session; (3) a description of the presenter's background and qualifications; and (4) a copy of the agenda and the training materials disseminated.

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. 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 regulations at 34 C.F.R. §§ 104.33 and 104.61, and the Title II implementing regulations at 28 C.F.R. §§ 35.130 and 35.134 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

³ As used in this Agreement, the term "District staff" includes school administrators, and instructional and counseling personnel, to include, but not be limited to, Principals, Assistant Principals, Counselors, Deans of Students, Academic and ESE Coaches, and ESE Liaisons at the District's schools. In addition, the term "District staff" includes Deans of Discipline, Assistant Principals of Discipline, and Coordinators of Discipline within the District.

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the Section 504 implementing regulations at 34 C.F.R. §§ 104.33 and 104.61, and the Title II implementing regulations at 28 C.F.R. §§ 35.130 and 35.134, 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.

This Resolution Agreement will become effective immediately upon the signature of the Superintendent or his/her designee below.

Superintendent or designee

Date