

**Resolution Agreement
Atlanta Public Schools
OCR Complaint #04-15-1177**

In order to resolve the allegation in OCR Complaint #04-15-1177, filed with the U.S. Department of Education, Office for Civil Rights (OCR), the Atlanta Public Schools (District) agrees to implement this Resolution Agreement. Investigation of this complaint was initiated pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

Practices

1. Beginning the date of this Agreement the District will commence revising its practices for evaluating students for eligibility for services necessary to receive a free appropriate public education (FAPE) as specified in the Section 504 regulation, to be consistent with the Section 504 regulation, including but not limited to, the guidelines in Items (a) through (h) below:
 - (a) Decisions about whether a student has a disability will be consistent with the Section 504 regulation and the expanded definitions of physical and mental impairments and major life activities in accordance with the ADA Amendments Act of 2008.
 - (b) A student will be determined to have a disability if one or more major life activities is substantially limited by his or her impairment.
 - (c) The major life activities to be considered include, but are not limited to, those on the following non-exhaustive list: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, talking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, and working.
 - (d) A student also meets the definition of disability if the student has a physical or mental impairment that substantially limits the operation of a major bodily function, which includes but is not limited to the functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
 - (e) An impairment need not prevent or significantly or severely restrict the student from performing a major life activity in order to be considered substantially limiting.
 - (f) Ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses, will not be considered when determining whether a student's impairment substantially limits a major life activity.
 - (g) Whether an impairment substantially limits a major life activity will not demand extensive analysis.
 - (h) When fulfilling a request for a Section 504 eligibility determination, the Section 504 evaluation team will

- i. Make the determination within a reasonable time.
- ii. Not permit the response-to-intervention process implemented by Student Support Teams to delay making the determination of Section 504 eligibility.
- iii. Utilize an evaluation process in accordance with the Section 504 standards set out in 34 C.F.R. Section 104.35.

REPORTING REQUIREMENT:

- a. By **January 31, 2017** the District will provide OCR documentation demonstrating that it has revised its practices for evaluating students for eligibility to receive FAPE services in accordance with this Item of the agreement. The District will document the steps it has taken to revise its practices and provide all notices or other documents related to the revised practices.
- b. By **July 31, 2017** the District's Section 504 Coordinator or his/her designee will review a random sampling of at least **23** eligibility determinations from at least 10 different schools to ensure that the determinations have been made in accordance with Item 1 of this Agreement. At least five of the determinations will have been completed by the School; for the remaining nine schools, the District will review at least two eligibility determinations per school. The Coordinator or designee will prepare a summary that will include the timeline for the evaluation, the impairments and major life activities considered, whether the ameliorating effects of mitigating measures were considered and if response-to-intervention or Student Support Team was used, how the evaluation time frame was impacted by the use of response to intervention or the Student Support Team. For any Section 504 eligibility determination taking more than 60 days, an explanation for the delay will be provided. For any Section 504 eligibility determination in which the Student was determined ineligible, an assurance that the parent received a copy of their Parent Rights and Procedural Safeguards will be provided.

Written Policies and Procedures

2. By January 31, 2017, the District will, subject to OCR's review and approval, revise its policies and revise its procedures related to provision of a FAPE to students with a disability to ensure that each Section 504 eligibility decision is based on the standard set out in the Section 504 regulation and specifically include the guidelines set forth in subparts (a) through (h) of Item 1 of this Agreement. Within fifteen (15) school days after receiving notice of OCR's approval of the revised policies and its revised procedures the District will publish, disseminate and implement the procedures; the publication of the policies and of the procedures will include posting on the District's website so that it can be easily located.

REPORTING REQUIREMENT:

- (a) By **January 31, 2017**, the District will submit its revised policies and its revised procedures to OCR for review and approval.
- (b) Within fifteen (15) school days after receipt of notice of OCR's approval of the revised procedure and its revised procedures, the District will provide OCR documentation demonstrating that it has implemented, published and disseminated the revised policies and the revised procedures. The District's report will also include a link to the District's website posting containing the revised policies and the revised procedures.

Training

- 3. By **January 31, 2017**, or within thirty (30) days of receipt of OCR's approval of the policies and the procedures revised in accordance with Item 2 of this Agreement, whichever is later, the District will initiate annual training of personnel (including those at charter schools) who are responsible for coordinating response-to-intervention, Student Support Teams, and Section 504 eligibility teams on: a) the Section 504 standards at 34 C.F.R. Section 104.35 and b) the policies and procedures revised in accordance with Item 2 above.

REPORTING REQUIREMENT:

- (a). By **February 15, 2017**, or within 45 days of receipt of OCR's approval of the policies and procedures revised in accordance with Item 2 of this Agreement, whichever is later, the District will provide OCR with documentation of the initial training in accordance with Item 3 of this Agreement. The documentation should include: the date(s) of the training session(s); a copy of the agenda for the training; a copy of any Power Point presentation or materials used during the training, the name, position, and credentials of the trainer(s); and an attendance sheet signed by the participants that indicates their names and titles.

Determination of Individual Compensatory Relief

- 4. By January 31, 2017, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons will determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to timely determine the Student's Section 504 eligibility, and any other matters raised in all pending OCR Complaints. If so, within one 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 31, 2017**. 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 two weeks of the decision the District will submit to OCR documents supporting the group's decision, including documentation showing the District met procedural requirements of Section 504, and its implementing regulation at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

- b) If applicable, by **May 15, 2017**, 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).

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, with respect to this issue.

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 regulations implementing Section 504 with respect to this issue.

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 sixty (60) calendar days to cure the alleged breach.

Date

Superintendent