

**Resolution Agreement**  
**Habersham County School District**  
**OCR Docket Number #04-15-1354**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against the Habersham County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 Americans 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. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to the provisions of Section 504 and Title II. This Agreement shall not constitute an admission of liability on behalf of the District and does not constitute a finding on the part of OCR.

Accordingly, to ensure compliance with the above-referenced law and regulation and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions:

**Section 504 Grievance and Complaint Procedure:**

1. **By November 30, 2015**, the District will review and revise, as needed, its written policies and procedures for the investigation of complaints and grievances alleging disability discrimination (Complaint Procedures) to ensure that all such complaints, regardless of the specific allegations, are investigated thoroughly and resolved promptly, equitably, and effectively and that all such complaints are appropriately documented. The Complaint Procedures will include a notice that the procedures apply to complaints of disability discrimination against students by employees, students or their parents or guardians, or third parties, and that the investigation will utilize a preponderance of the evidence standard to conclude whether the allegation constituted a violation of Section 504 and/or Title II. Such revised procedures will be provided to OCR for review and approval. The procedures should include, at a minimum, the following elements:
  - a. Notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed;
  - b. Application of the procedure to complaints alleging disability harassment carried out by employees, other students, or third parties;
  - c. Adequate, reliable, and impartial investigation of complaints, including interviewing any available witnesses identified, and reviewing other evidence;
  - d. Designated and reasonably prompt timeframes for the major stages of the complaint process;
  - e. Written notice to the parties of the outcome of the complaint;

- f. An assurance that the school will take appropriate steps to prevent recurrence of the harassment, and to correct the discriminatory effects on the complainant and others, if appropriate; and
- g. A prohibition against retaliation for any individual who files a complaint or participates in a complaint investigation.

**REPORTING REQUIREMENT:** By **January 8, 2016**, the District will provide OCR with a proposed revision of its Section 504 Complaint Procedures for review and approval.

**Within 45 days of receiving OCR's approval of the grievance procedures**, the District will publish the OCR approved procedures in all written and online student handbooks or other relevant publications.

**Within 15 days of publishing the procedures**, the District will provide OCR with copies of the written publications that include the procedures and web links for accessing the procedures online.

### **Staff Training**

- 2. By **November 30, 2015**, the District's legal counsel will initiate training to the District's Section 504 Coordinator and all staff and faculty at Habersham County High School involved in the evaluation and placement of students under Section 504 and Title II. Thereafter, annual training will be conducted by the District's Section 504 Coordinator. The training will explain the application of the District's policies and procedures pertaining to evaluation, eligibility determination and placement of students under Section 504 and Title II as well as full and complete implementation of any educational plan created under Section 504 and Title II. The training will include information regarding the prohibition of retaliation against those individuals who engage in protected activities by pursuing a student(s) rights under Section 504 or Title II.

**REPORTING REQUIREMENT:** By **December 30, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training pursuant to Item 1 above. The documentation shall include: (1) the date of the training session(s); (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 Section 504 and the District's policies and procedures; (4) a copy of the agenda and the training materials disseminated; and (5) certification that the materials were provided to any staff unable to attend the training due to an emergency or other excused absence.

- 3. By **November 30, 2015**, the District's legal counsel will initiate annual training to all staff and faculty at Habersham County High School regarding the prohibition against disability harassment under Section 504 and Title and the potential effects of disability harassment (i.e., a denial of a free appropriate public education). The training will also address each staff

member's role/responsibility in the reporting of incidents of disability harassment and investigation of the same.

**REPORTING REQUIREMENT:** By **December 30, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training pursuant to Item 2 above. The documentation shall include: (1) the date of the training session(s); (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 Section 504 and the District's policies and procedures; (4) a copy of the agenda and the training materials disseminated; and (5) certification that the materials were provided to any staff unable to attend the training due to an emergency or other excused absence.

4. By **November 30, 2015**, the District's legal counsel will initiate individualized training to the Section 504 Coordinator at Habersham County High School regarding his/her responsibilities under Section 504. Annual training thereafter will be provided by the District's 504 Coordinator to the Habersham County High School 504 Coordinator. The training will explain the application of the District's policies and procedures pertaining to evaluation, eligibility determination and placement of students under Section 504 as well as full and complete implementation of any educational plan created under Section 504. The training will further explain the Coordinator's responsibility to ensure that School staff complies with the requirements of the regulation and to ensure that each student with a disability receives a free appropriate public education. The Section 504 Coordinator shall also receive training regarding the effects of disability harassment (i.e., a denial of a free appropriate public education). The training will address the Coordinator's role/responsibility in the reporting of incidents of disability harassment and investigation of the same.

**REPORTING REQUIREMENT:** By **December 30, 2015**, the District will provide documentation to OCR demonstrating that the District has initiated annual training pursuant to Item 3 above. The documentation shall include: (1) the date of the training session(s); (2) a description of the presenter's background and qualifications with respect to Section 504 and the District's policies and procedures; and (3) a copy of the agenda and the training materials disseminated.

### **Student Remedy**

5. By **December 30, 2015**, upon being provided with valid receipts for the same, the District will provide financial reimbursement to the Student for counseling services obtained to address anxiety and other concerns related to disability harassment to include a counseling re-evaluation and five counseling sessions. The duration of each session (30-60 minutes) will be determined by the Student's counselor based on the Student's need.

**REPORTING REQUIREMENT:** By **January 30, 2016** the District will provide documentation to OCR demonstrating that the District has complied with Item Five.

**Climate Survey**

6. **By October 30, 2015, and annually thereafter**, the District will conduct a “climate check” or series of climate checks with students and staff at the School to assess the presence of and effects of disability harassment. This climate check may be accomplished through written or electronic survey, provided that students receiving the survey also are notified of a contact person, such as a counselor, should they wish to discuss this issue in person. If this method is selected, the written survey must be provided to OCR for review and approval prior to its use. Information gathered during these climate checks will be used to develop proactive steps to be taken by the School to address any areas of concern identified by the climate check. Participation in the survey by students will be entirely voluntary, and the survey will be conducted in a manner consistent with applicable law.

**REPORTING REQUIREMENTS:**

**By November 13, 2015**, if the District chooses to conduct a climate check by issuing a survey, the District will provide OCR with a copy of a proposed survey for OCR’s review and approval.

**Within 60 days of approval from OCR or by February 1, 2016**, whichever is later, the District will disseminate the climate check survey to the School’s students.

**By April 30, 2016**, the District will provide documentation to OCR demonstrating that the School has conducted the climate check, an analysis of the information obtained by the climate check, and a description of the proactive steps to be taken by the School to ensure a campus free of disability harassment as well as other harassment prohibited by other laws OCR enforces.

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 regulations.

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 and its implementing regulation at 34 C.F.R. §§ 104.4, 104.33, 104.34, 104.36 and Title II and its implementing regulation at 28 C.F.R. § 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 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.

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**Superintendent or Designee**

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**Date**