

Resolution Agreement
Marion County School District
OCR Docket #04-15-1539

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of 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, 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 American 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. Prior to the completion of OCR's investigation, the District asked to voluntarily resolve the issue in this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. This resolution agreement has been entered into voluntarily between the parties and does not constitute a finding or admission that the District is not in compliance with Section 504 and Title II. Accordingly, to ensure compliance with Section 504 and Title II, the District voluntarily agrees to take the following actions:

I. POLICIES AND PROCEDURES

Section 504 Procedures

1. By March 1, 2016, the District will publish its Section 504 procedures in all sources where this information should be located, including, but not limited to, the District's Section 504 Policy and Procedures Manual, the Marion County Code of Conduct, and the District's website, where it (or a link to it) should be prominently displayed, which says "Click here for information about Auxiliary Aids and Services for Students with Disabilities." Multiple hard copies of the District's Section 504 Policy and Procedures Manual or Code should be available at each school in the District for members of the public who request and should include step-by-step instructions for parents seeking Section 504 help for their Students, as an addendum to the Section 504 Policy and Procedures Manual and the website.

REPORTING REQUIREMENT: By May 1, 2016, the District will provide OCR with evidence that it has taken the actions described in Action Item #1.

II. TRAINING

1. District Staff

By September 1, 2016, OCR shall conduct a training for all District Section 504 designees, including at least one transit staff, on the following topics:

- a. a review of the District's Section 504 and Title II procedures for inclusion of students with disabilities in all programs and benefits of the programs of the District;
- b. training on the meaning of "reasonable accommodation" as defined by 34 C.F.R. § 104.12;
- c. training on Section 504 requirement that a request by an individual pursuant to Section 504 for use of medications by a student with a disability on District provided transportation services or at school must be individually evaluated by a group of knowledgeable individuals; and
- d. instructions for staff to contact the designated Section 504 and/or Title II Coordinator(s) should they have concerns about the provision of a related aid or service to a student with a disability.

REPORTING REQUIREMENT: On the date of the training, the District will provide to OCR a roster of all District Section 504 designees, along with their title and, if applicable, the school at which they are assigned. OCR will provide a sign in sheet for District staff to confirm that they were present at the training. The two lists will be compared by OCR after training is complete.

2. School Staff

By March 1, 2016, provided the Complainant cooperates by providing the District with information concerning the Student's medical needs, or within thirty (30) days of Complainant providing the needed information, the District will conduct appropriate training for school teachers, support staff, transportation staff, and school leaders at Fort McCoy Middle School (or the school in the District that Student elects to attend) regarding:

- The medical needs of the Student;
- The administration of the any emergency medications or procedures needed by Student, as prescribed and recommended by his health care providers.
- The District will provide Student-specific emergency action plan training, as detailed in item #III.1.a, to Fort McCoy Middle School Staff (or the school in the District that Student elects to attend) and District Transportation staff;
- The Fort McCoy Middle School Staff (or the school in the District that Student elects to attend) and District transportation staff should also receive training regarding Section 504 requirement that Districts convene a meeting of knowledgeable individuals to make an individual determination in any case regarding the provision of auxiliary aids and services for a student with a disability on District provided transportation services and at school, including the administration of medications.
- The District will ensure that at least three Fort McCoy Middle School (or the school in the District that Student elects to attend) staff, administrators, transit staff, or faculty, are trained in the administration of any emergency medications or procedures needed by Student for his medical conditions so

that the Student has unbroken access to emergency care, should he need it, at all points of his school day and on District provided transportation services.

REPORTING REQUIREMENT: By March 15, 2016, the District will provide OCR with documentation that it has implemented Action Item #2, including (1) documentation of the training provided; (2) the name(s) and credentials of the trainer(s); (3) the date the training was held; (4) copies of the training materials and any resources distributed to trainees; and (5) the names and positions of those in attendance.

III. COMPLAINT CENTERED REMEDIES

1. By February 15, 2016, provided Complainant cooperates by providing the Student's medical information, or within thirty (30) days of the date that Complainant provides the needed information, the District will convene a Section 504/IEP meeting for Student, including his parents, teachers, relevant medical providers, the school nurse, other school clinic workers, and other people knowledgeable about the Student and how to accommodate his disability. The meeting shall cover the provision of related aids and services provided to the Student during the school day, as well as on District transit, including, but not limited to:
 - a. An emergency care plan in the event Student experiences an adrenal shut-down while at school, on a field trip, or during his daily bus ride. Such emergency care plan shall identify: (1) the names of the persons who will be available to administer any emergency medications or procedures needed by Student, as well as at least two names of backup individuals trained in the administration of this medicine for all points of the Student's school day and on District buses, including fieldtrips; (2) procedures for ensuring that the Student will have access to persons responsible for supervising the administration of the Student's medication at all points of his school day and on bus rides; (3) identification of the names individuals responsible for contacting EMS/911 in the event the Student experiences adrenal shut-down, as well the names of as at least two designated backup callers for all points of the Student's school day and bus rides; (4) the means by which bus drivers in the District are to call EMS/911 if the Student is riding their bus; and 5) identification of any other steps necessary to ensure student safety in the event of an adrenal shut-down and the names of the individuals responsible for executing these steps, along with the names of two designated backup individuals for each step.
 - b. Any other accommodations necessary to ensure that the Student can safely attend school and ride District buses.

REPORTING REQUIREMENT: By March 1, 2016, the District will provide notes from the 504 meeting, as well as a list of attendees and their relationship to the process. By March 1, 2016, regardless of the Complainant's participation, the District will provide an updated 504/IEP plan or draft-action plan for the Student to

OCR and notify the Complainant of the draft action plan. If Complainant responds at a later time, the District shall provide the information detailed above to OCR within thirty (30) days of the Section 504 meeting.

2. By March 1, 2016, or within thirty (30) days of receipt of physician's orders and other relevant information from the Complainant concerning the Student's medical needs, the Student will be able to attend Fort McCoy Middle School (or the school in the District that Student elects to attend) and to ride all District provided transportation services and to receive the emergency medication needed for his condition should the need arise as outlined in the Student's emergency health plan.

REPORTING REQUIREMENT: By March 15, 2016, the District will provide documentation to OCR demonstrating that the Student is enrolled at Fort McCoy Middle School (or another non-virtual school in the District that Student elects to attend), or was extended the opportunity to do so. If medical information from Complainant regarding the Student is provided at a later date, the District shall report to OCR regarding the Student's ability to attend school and ride District transportation within forty-five (45) days of receipt of Complainant's information.

3 By March 15, 2016, or within thirty (30) days of the Student's re-enrollment in one of the District's non-virtual schools and after providing proper written notice to the Student's parents, a group of knowledgeable persons, including the parents if possible, will determine whether the Student needs compensatory and/or other remedial services as a result of the Student attending a virtual school for the majority of the current school year. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services and set a reasonable completion date for the services. 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: The District shall within 2 weeks of the decision as to whether compensatory and/or remedial services are needed to compensate for the period of time Student enrolled in virtual school, 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. Prior to approving the District's decision and plan for providing the proposed services, OCR will review the documentation to ensure that the District, in making these determinations, met the procedural requirements of the regulation implementing Section 504 at 34 C.F.R. §§ 104.34, 104.35 and 104.36.

By April 15, 2016, 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).

4. By March 15, 2016, the District must request documentation from the Student's family about any costs incurred as a result of Student attending virtual school for the majority of the 2015-16 school year through February 2016, which the family otherwise would not have incurred had the Student remained enrolled at Fort McCoy Middle School (e.g. internet service, printing costs, purchase or rental of a computer or other office machinery, purchase of textbooks or other media). Once such documentation is received, the School shall reimburse the Student's family for these expenses within thirty days.

REPORTING REQUIREMENT: By June 15, 2016, or within forty-five days of receiving the Student's family's documentation, whichever date is later, the District will provide documentation to OCR of its request for documentation to Student's family, as well as any reimbursement it has made. If no documentation is submitted by the family, the District shall advise OCR and demonstrate its good faith effort to provide the Student's family with the opportunity to be reimbursed.

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 regulation, at 34 C.F.R. §§ 104.33 and 104.35, and the Title II implementing regulation, at 28 C.F.R. § 35.130.

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 implementing regulation, at 34 C.F.R. §§ 104.33 and 104.35, and the Title II implementing regulation, at 28 C.F.R. § 35.130, 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 sixty (60) calendar days to cure the alleged breach.

Superintendent or Designee

Date

Printed Name and Title