

Resolution Agreement
Alabama State Department of Education
OCR Docket Number 04-16-1224

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Alabama State Department of Education (ALSDE), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 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. The ALSDE agreed to resolve the issue of this investigation pursuant to Section 303(b) of OCR's Case Processing Manual (CPM). Accordingly, to ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issue of this investigation, the ALSDE voluntarily agrees to take the following actions:

Revision of ACT Aspire Reader (Read-Aloud) Accommodation Policy

1. **By November 30, 2016**, the ALSDE will, in accordance with the requirements of Section 504 and Title II and subject to OCR's review and approval, revise its existing policy regarding the reader (read-aloud) accommodation for the ACT Aspire examination. The revision will eliminate any requirement under the existing policy, whether actual or perceived, that in order to qualify for the reader accommodation for the ACT Aspire, a student's documented reading disability must:
 - a. Be "two or more grade-levels below the student's enrollment grade;" and
 - b. "Severely limit the student from decoding at any level of difficulty."

REPORTING REQUIREMENT: **By December 15, 2016**, the ALSDE will submit to OCR for review and approval a copy of its revised ACT Aspire reader accommodation policy to ensure that it is consistent with the requirements of Section 504 and Title II.

Notice

2. **Within 30 calendar days of the date of OCR's approval of the ALSDE's revised ACT Aspire reader accommodation policy**, the ALSDE will implement, publish, and notify all necessary parties of the revised policy. To fulfill this requirement, the ALSDE will: (a) publish the revised policy on its website and update all online, electronic, and printed versions of the policy that are contained in any materials currently in use, whether internally or disseminated to the public; and (b) provide notice of the policy change to all ALSDE staff members whose duties relate to ACT Aspire reader accommodation development or implementation, System Test Coordinators in city and local school districts, and special education and Section 504 coordinators in city and local school districts involved in ACT Aspire reader accommodation development or implementation.

REPORTING REQUIREMENT: **Within 45 calendar days of the date of OCR's approval of the ALSDE's revised ACT Aspire reader accommodation policy**, the ALSDE will submit evidence to OCR demonstrating that it has implemented, published, and notified all necessary parties regarding the policy change. In particular, the ALSDE's submission to OCR will:

- a. Provide a link to the ALSDE's website containing the notice of policy change and the revised policy, as well as links to any other websites containing the revised policy, in accordance with Item #2(a) above;
- b. Provide copies of all electronic and printed versions of the revised policy that are contained in any materials currently in use, whether internally or disseminated to the public, in accordance with Item #2(a) above; and
- c. Describe the manner and date(s) of notification of the policy change, in accordance with Item #2(b) above (and attach a copy of each disseminated notice).

The ALSDE 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 ALSDE understands that during the monitoring of this Agreement, if necessary, OCR may visit the ALSDE, interview staff, and request such additional reports or data as are necessary for OCR to determine whether the ALSDE has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4 and the Title II implementing regulation at 28 C.F.R. § 35.130.

The ALSDE understands that OCR will not close the monitoring of this Agreement until OCR determines that the ALSDE has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulation at 34 C.F.R. § 104.4 and the Title II implementing regulation at 28 C.F.R. § 35.130, which were at issue in this case.

The ALSDE 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. §§ 100.8-100.10) or judicial proceedings to enforce this Agreement, OCR shall give the ALSDE written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

This Agreement has been entered into voluntarily by the ALSDE and does not constitute an admission by the ALSDE that it is not in compliance with Section 504 or Title II or their implementing regulations.

X, Interim State Superintendent
Alabama State Department of Education

Date