

**Resolution Agreement  
Lauderdale County School District, AL  
OCR Docket No. 04-17-1112**

The U.S. Department of Education, Office for Civil Rights (OCR), and the Lauderdale County School District (District), enter into this Resolution Agreement (Agreement) to resolve the allegation in complaint number 04-17-1112. The District assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 USC § 794, and its implementing regulation at 34 CFR Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 USC § 12132 *et seq.*, and its implementing regulation at 28 CFR Part 35, which prohibit discrimination on the basis of disability by public entities.

Pursuant to Section 303(b) of OCR's Case Processing Manual, to resolve the issues of this investigation, the District agrees to implement the following corrective actions.

**Student Focused Remedy**

1. By April 23 2018, the District will extend an offer in writing to the Student and her parent or guardian by letter sent via registered first class mail, certified mail, and by electronic mail to the most current address provided to the District inviting the student to reenroll in the District at her prior school or any other school of her choice, and notify the Student's parent or guardian that the District can evaluate the Student with respect to eligibility for accommodations under Section 504 and need for compensatory and/or remedial services. The notice provided to the parent or guardian will include a document to be returned to the District indicating whether or not they wish to re-enroll and whether they consent to an evaluation.

**Reporting Requirements:**

**Within 3 weeks of sending the correspondence,** the District will provide OCR with a copy of the letter, email, and any other documents related to the offer to re-enroll, including any documentation reflecting the parent, guardian, or student's response to this offer to re-enroll.

**Within 2 weeks of certification or a statement from the Student's parent or guardian with respect to consent to evaluating the Student,** the District will submit to OCR documents establishing when the Student will be evaluated, including a date for the evaluation, or whether the parent or guardian chose not to give consent for the District to evaluate the Student for the 2017-2018 school year.

2. **If the Student's parent or guardian re-enrolls the Student and consents to an evaluation,** the District will :

- a) After providing proper written notice to the Student's parent or guardian, convene a group of persons knowledgeable about the Student, including the parent or guardian, the evaluation data about the student gathered from a variety of sources, including the Student's own independent evaluations, and the placement options to determine whether the Student is eligible under Section 504;
- b) Provide notice to the Student and their parent or guardian of their procedural safeguards under Section 504 including the right to challenge the group's determination through an impartial due process hearing; **and**
- c) If the District determines that the Student is eligible for regular or special education and related aides or services under Section 504, the District will convene a group of persons knowledgeable about the Student, as defined by Section 504, including the parent or guardian, to determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to conduct an appropriate evaluation for regular or special education and related aides or services under 504 from January 2016 through January 2017. 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 90 school days of this determination.

**Reporting Requirements:**

**Within 2 weeks of the evaluation conducted in accordance with Item 2(a) and providing notice under Item 2(b) above,** the District will submit to OCR documents regarding the evaluation conducted in accordance with 2(a), above, and documents supporting the 504 team's decision on eligibility for regular or special education and related aides or services under Section 504. The documents submitted shall include documents showing the participants in the meeting, the information and data considered, an explanation of the decisions made, and a copy of the resulting determination and/or plan. The District will also submit to OCR documents regarding the notice of procedural safeguards provided to the Complainant in accordance with Item 2(b). OCR will review this documentation to ensure the District met their procedural requirements of the regulation implementing section 504 at 34 CFR §§ 104.34, 104.35, and 104.36 in making these determinations.

**Within 2 weeks of the Student's evaluation for compensatory services under Item 2(c) above,** the District will provide OCR with documents reflecting the evaluation of the Student for providing compensatory and/or remedial services to the Student, including a description of the service(s) to be provided, the frequency and duration of the service(s), and the name(s) of the provider(s), and a description of and schedule for providing any compensatory and/or remedial services to the Student. OCR will, prior to approving the District's decision concerning compensatory and/or remedial services and plan for providing the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 CFR §§ 104.34, 104.35, and 104.36 in making these determinations. If compensatory services are not deemed necessary, the District will provide OCR with any documentation showing the rationale and basis of that decision and the team meeting minutes from the meeting where that decision was made.

**Within 15 days of completing all compensatory and/or remedial service(s) under Item 2(c) above,** the District will provide OCR with documents showing that all services have been completed.

3. **By April 23, 2018,** the District will send a letter of apology to the Student via registered first class mail, certified mail, and by electronic mail to the most current address provided to the District. This letter will apologize for the Student's discriminatory and retaliatory dismissal from the District. This letter will reaffirm the District's commitment to the Student to evaluate her for eligibility under Section 504, provide a free and appropriate public education (FAPE) to eligible students under Section 504, and reaffirm the District's commitment to not discriminate against the Student and other Students on the basis of race, color, national origin, sex, disability, or age in its programs and activities. This letter will also reaffirm the District's commitment to not retaliate against the Student or other students because they have made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under OCR's regulations, or for the purpose of interfering with any right or privilege secured by the statutes and regulations enforced by OCR. Finally, this letter will request that the Complainant submit to the District within 20 days for the District's consideration her own accounting of costs, including receipts if applicable, that the Complainant incurred for independent psychological evaluation of the Student for ADHD, and Dyslexia and for private compensatory or remedial educational services for the Student, including private tutoring, from January 2016 through January 2017. Within 30 days of the date of that letter, the District will remit reimbursement to the Complainant for all compensatory or remedial educational services costs incurred on behalf of the Student and related to the District's failure to appropriately and timely evaluate the Student.

**Reporting Requirement:**

**By May 7, 2018,** the District will provide OCR with a copy of the letter, email, and any other documents related to the letter of apology, including the contact information used, and any other applicable documentation.

**Within three weeks of receipt of a response from the Complainant, whichever is later,** the District will provide OCR with the Complainant's response to the requests for an accounting of costs identified in Item 3 above, including all documents provided by the Complainant, copies of all documents related to the District's consideration of this accounting and proof of remittance of payment to the Complainant for these costs. If any submitted costs are denied, please provide OCR with the rationale for the decision on each denied cost.

**Policy Revision**

4. By July 2, 2018, the District will revise its Pupil Support Team (PST) and Response to Intervention (RtI) Manuals, policies and procedures, forms, checklists, flow charts and the Student Handbook at Section 3.26 and 3.27 to clarify that a referral under

Section 504 may be needed before it is shown that Tier 3 interventions are not producing gains after implementation for 8-12 weeks and clarify that failure of the PST/RtI interventions and process is not always a pre-requisite to a Section 504 or IDEA evaluation referral. The PST/RtI policies should state: "When a student needs or is believed to need Section 504 accommodations or related aides and services because of a disability, then the District must refer a student for evaluation for eligibility under Section 504. Section 504 evaluation can occur simultaneously with PST/RtI process and the student's ongoing interventions. Information giving rise to a belief that a student may have a disability may come from a variety of sources, including but not limited to, aptitudes and achievement tests, grades, teacher recommendations or observations, physical condition, external diagnosis, or parental documentation." The District will revise its manual, policies, and such forms and PST/RtI flowcharts to reflect this requirement.

**Reporting Requirement:**

**By August 1, 2018**, the District will submit to OCR for review and approval its revised PST/RtI Manuals, policies and procedures, forms, checklists and flow charts to ensure compliance with the requirements of Section 504 and Title II with regard to evaluation of students suspected of having a disability.

5. **Within 15 day of notice of OCR's approval** of the revised PST/RtI Manuals and documents described in Item 4 above, the District will adopt these revised PST/RtI documents and policies, and publish them on the District's website, intranet, Student Handbook, or in any other appropriate locations.

**Reporting Requirement:**

**Within 30 days of receipt of notice of OCR's approval** of the PST/RtI documents described in Item 4 above, the District will submit to OCR documentation to show the revised documents and policies were published on the District's website, intranet, Student Handbook, or in any other appropriate locations.

**Training**

6. During August 2018 in-service, the District will provide training to administrators, teaching staff, PST/RtI staff, special education staff, Section 504 staff at the District on the District's obligations under Section 504 and Title II to evaluate students suspected of having a disability for eligibility under Section 504, provide a FAPE to eligible students under section 504, and Section 54 and Title II's prohibitions against discrimination on the basis of disability and against retaliation. This Training will also cover the OCR approved revisions to the District's RtI/PST manual and procedures with respect as detailed in Item 4 above. OCR can also provide such training under this item if requested by the District, and if requested, the District will coordinate with OCR of the proposed dates, times and location for the training to be conducted under this item

**Reporting Requirement:**

**If training by OCR is requested, then within 15 days of the completion of the training session under Item 6,** the District will provide OCR with a log with names and titles of all faculty, employees, and administrators who attended the training.

**If training by OCR is not requested, then by September 15, 2018,** the District will submit to OCR documentation demonstrating the completion of the training for the appropriate District faculty, staff and administrators from the School. Such documentation should include the date(s) of the training session(s); a copy of the agenda of the training; the name, position, and credentials of the trainer(s); an attendance sheet signed by the participants that indicates the names and titles; and a copy of the presentation materials.

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 34 CFR §§ 104.4(a) & (b)(i)-(iv), 104.35, 104.36, 104.61, and the Title II implementing regulation at 28 CFR §§35.130, and 35.134. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 CFR §§ 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 Agreement will become effective immediately upon the signature of the Superintendent or his/her designee.

XXXXXXXXXXXX  
Superintendent of Education

4/19/2018  
Date

XXXXXXXXXXXX  
Printed Name and Title