

**Resolution Agreement
Newton County Schools
OCR Docket # 04-17-1280**

OCR and the Newton County School District enter into this agreement to resolve the allegations in the above-referenced complaint. The District submits this Resolution Agreement (Agreement) to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 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.

ACTION ITEM 1

Individual Remedy:

No later than August 15, 2017, the District will offer the Complainant, in writing, a consent form to conduct a comprehensive evaluation for the Student to determine if the Student is eligible to receive related aids and services pursuant to Section 504/Title II. If Complainant provides consent for the evaluation, within 45 calendar days of the evaluation, after providing proper written notice to the Student's parent, the District will convene an Individualized Education Program (IEP) or Section 504 meeting for the Student with a group of knowledgeable persons, including the Complainant/Parent. The meeting attendees will discuss in detail, with input from the Complainant/Parent: (1) the type of related aids and services the Student presently needs; (2) how such related aids and services will be implemented; and (3) whether or not the Student needs compensatory education in compliance with 34 C.F.R. § 104.33 and the Title II implementing regulation at 28 C.F.R. § 35.130. The District will provide the Student's Complainant/Parent notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing. The District will also provide the Complainant/Parent with a meaningful opportunity to provide input into these determinations and notice of the determinations made. During the IEP or Section 504 meeting, the team, including the Complainant/Parent, will discuss whether the Student needs compensatory education. If compensatory education is deemed necessary, the District will, in writing, offer the education to the Complainant/Parent, detailing how the District will provide the compensatory education to the Student. Within 30 calendar days of the District's written offer, the Complainant must notify the District of her acceptance or rejection of the District's offer of compensatory education. If the Complainant accepts the compensatory education for the Student, all compensatory education for the Student must be provided within 180 calendar days of the Complainant's acceptance. If the Complainant refuses compensatory education, does not respond to the District's offer, or does not provide access to the Student so that he may receive compensatory education, the District will provide OCR with documentation of its attempts to notify the Complainant of its offer to provide the proposed compensatory education and will communicate these concerns to OCR in order to mutually determine how to proceed.

Reporting Requirements:

Within two weeks of the completion of the comprehensive evaluation, the District will provide OCR with a copy of the evaluation. Within 30 calendar days of the IEP or 504 meeting, the District will provide a copy of the IEP or Section 504 plan and meeting minutes. Within two weeks of the decision as to whether compensatory and/or remedial services are needed, 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. If compensatory education is determined to not be necessary that is all the documentation required.

If compensatory education is deemed necessary, a copy of the written offer letter shall also be provided to OCR. Alternatively, as soon as the District determines that it cannot fully provide the required compensatory education to the Student because the Complainant will not give consent, does not respond to the District's offer, or will not provide access to the Student, the District will provide OCR with all documentation of its attempts to provide the compensatory education.

ACTION ITEM 2

Training:

By **November 1, 2017**, the District will provide training to Clement Middle School's Exceptional Student Education (ESE) and Section 504 Coordinator (s), administrators and other relevant staff who have responsibility for implementing the District's ESE and Section 504 services for students. The training will consist of an overview of the Section 504 and Title II legal standards regarding the development and implementation of students' IEP and Section 504 plans.

Reporting Requirements:

By **December 1, 2017**, the District will provide OCR with a written report confirming the completion of training specified in Action Item 3. The documentation shall include: (1) the background and qualifications of the presenters/trainers; (2) a copy of the transcript(s)/materials used for the training; and (3) a list of the participants' names and titles that completed the training.

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, at §§ 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 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 and upon reasonable prior notice by OCR, 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 at 34 C.F.R. 34 C.F.R. § 104.33, and the Title II 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.

Superintendent or Designee

Date