

Muscogee County School District (Georgia)
Resolution Agreement
OCR No. 04-17-1576

The U.S. Department of Education, Office for Civil Rights (OCR) and Muscogee County School District enter into this Resolution Agreement (Agreement) to resolve the allegation in the above-referenced complaint. This Agreement does not constitute an admission of liability or wrongdoing by the District. 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 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. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. OCR has not issued findings concerning issues of the above-referenced case number. This Agreement has been entered into voluntarily between the parties. Accordingly, to ensure compliance with Section 504 and Title II and to resolve the issues of OCR complaint #04-17-1576, the District agrees to take the following actions.

Student Remedies

1. **Within sixty (60) days of the effective date of this Agreement**, the District will review its September 2017 investigation conducted in response to the May 17, 2017 report that the Student, who is the subject of complaint #04-17-1576, was hit by a District paraprofessional. During its review, the District's shall ensure the following:
 - a. that it conducts interviews with all interested parties to the incident involving the Student on May 17, 2017, including the Complainant and the Student;
 - b. that it documents its review in writing, including providing a formal written report of its findings to the Complainant that includes the reasons for the conclusion(s), and the outcome of the review; and,
 - c. that the investigative report includes any corrective or remedial action, if warranted, to address any disability-based harassment experienced by the Student as a result of the May 17, 2017 incident involving a District staff member, in non-compliance with Section 504 at 34 C.F.R. § 104.4 and Title II at 28 C.F.R. § 35.130.
2. **Within fifteen (15) days of completing its report in Item 1 above**, the District will send a written copy of the report to the Complainant via certified mail.

REPORTING REQUIREMENTS:

- (i) **Within fifteen (15) days** of completing the review required in **Item 1**, the District will provide OCR with a copy of its report. The District also agrees to provide to OCR a copy of any witness interview notes or summaries and documents considered as part of the report, upon OCR's request.

- (ii) **REPORTING REQUIREMENT:** Within thirty (15) days of sending the written report to the Complainant, the District will provide documentation to OCR to confirm delivery.
- 3. Within thirty (30) days after reviewing the District's investigation as required by Item 1, the District will evaluate whether the Student was subjected to discriminatory treatment on the basis of disability as a result of the May 17, 2017 incident that resulted in a denial of a Free Appropriate Public Education (FAPE) in violation of 34 C.F.R. § 104.33.
- 4. Within fifteen (15) days of the District's evaluation referenced in Item 3 above, if the District determines that the Student was subject to discriminatory treatment that resulted in a denial of FAPE, the District shall, after providing formal, written notice to the Student's parent, convene a meeting of the Student's IEP team. The meeting shall include persons knowledgeable about the Student, including the Student's parent, to evaluate whether the Student requires any compensatory education and/or remedial services. The District will provide the Student's parent with formal notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENTS:

- (i) **Within thirty (30) days following the IEP meeting, if necessary, as described in Item 4, above,** the District will provide OCR with the following documentation: (a) the team's decision whether or not the Student required compensatory education and/or remedial services as a result of a denial of FAPE created by the May 17, 2017 incident; (b) the list of the participants who attended the IEP meeting; (c) an explanation for the decision(s) made during the meeting, including any documentation relied upon during the meeting in support of the decision(s); and, (d) a description of the compensatory and/or remedial services to be provided to the Student, including the schedule, if applicable.
- (ii) **Within one hundred twenty (120) days following the IEP meeting, if necessary, as described in Item 4, above, if necessary,** the District will provide OCR with documentation that sets forth a description of the dates, times and locations that the District offered compensatory and/or remedial services to the Student. The District will also provide OCR with the name(s) of the service provider(s), if applicable.

Modification of Procedures

- 5. **Within thirty (30) days of the execution of this Agreement,** the District will modify its harassment procedures to state that the procedures apply to harassment or discrimination carried out by other students, personnel, and **third parties (e.g., visiting students, contractors, vendors, or parents).**

REPORTING REQUIREMENT: Within forty-five (45) days of the execution of this Agreement, the District will submit to OCR for review and approval, its modified harassment policies and procedures.

- 6. **Within thirty (30) days of OCR's approval of Item 5 above,** the District will publish its revised harassment policies and procedures, including on its website.

REPORTING REQUIREMENT: Within fifteen (15) days of completing Item #4, the District will provide OCR with a copy of the publications that reference the revised procedures and the link to the revised procedures on the District's website.

Staff Training

7. **Within ninety (90) days of the execution of this Agreement**, the District will conduct training for all administrators, faculty, and staff at Waddell Elementary School (School) regarding the following:
- a. Prohibition of disability harassment; how to recognize, report, and appropriately address disability harassment and potential effects of disability harassment (i.e. denial of a free appropriate public education – FAPE) under Section 504 and Title II;
 - b. Each staff member's role/responsibility in reporting incidents of harassment; and
 - c. The responsibility of the individual(s) responsible for receiving and investigating complaints.

REPORTING REQUIREMENT: Within thirty (30) days of completing the training above, the District will provide documentation to OCR demonstrating that training was provided consistent with **Item 5** above, including: (a) the name(s) and credentials of the individual(s) who conducted the training; (b) name and title of the administrators, faculty and staff who attended the training session(s) (including dated sign-in sheets with the attendees' names, titles and work locations); (c) the total number of staff members not in attendance and the measures taken by the District to ensure that each staff member is provided the training materials and an opportunity to ask questions to clarify the training materials; (d) the date(s) the training was conducted; and (e) copies of any training materials disseminated.

The District understands that by signing this Agreement, it agrees to provide the foregoing 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 Section 504 at 34 C.F.R. § 104.4 and Title II at 28 C.F.R. § 35.130, which were at issue in this case. 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 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 Agreement will become effective immediately upon the signature of the District's representative below.

Superintendent or Designee

Date

Printed Name and Title