

RESOLUTION AGREEMENT
Duval County Public Schools
OCR Complaint #04-17-1593

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and Duval County Schools (District), enter into this agreement to resolve the allegations in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, 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. § 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, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability.

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. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions:

ACTION ITEMS

1. By January 9, 2018, the District will send the Complainant a letter explaining that, with her written consent, to be received by the District on or before January 23, 2018 (timely consent), the District will expeditiously conduct a manifestation determination hearing regarding the disciplinary incident (the incident) that resulted in the Student's placement in an alternative school setting. (For the sake of clarity, the incident refers to conduct that (1) occurred while the Student was attending Duval Charter School at Baymeadows and (2) the District maintains it previously conducted a manifestation determination hearing for and determined the Student's conduct was not a manifestation of his disability, before the Student received alternative school placement.) The letter will explain that:
 - a. Within 20 calendar days of the date the Complainant's consent is due, the District will assemble a group of people (a multidisciplinary committee) to determine whether the Student's conduct during the incident was caused by or related to his disability, that is, whether it was a manifestation of his disability.
 - b. The multidisciplinary committee will include a school psychologist and consist of individuals who are knowledgeable about the Student, the meaning of the information that the team will evaluate, and the placement options.
 - c. While the multidisciplinary committee may include some of the same individuals who participated in a previous hearing regarding the same incident, the District will make reasonable efforts to ensure that not all multidisciplinary committee members are the same.
 - d. The multidisciplinary committee will carefully review and analyze information collected from a variety of sources in determining whether the Student's conduct was a manifestation of his disability.
 - e. A manifestation decision involves more than determining whether a student knew right from wrong.

- f. At a minimum, for the incident under review (as well as any prior disciplinary incidents the District wants the multidisciplinary team to consider), the manifestation determination hearing will include:
 - i. (Consideration of the Student's 504 Plan) The multidisciplinary committee will specifically address:
 - (1) Whether the Student's 504 plan contained any behavior-related provisions (such as the use of a blue card),
 - (2) If so, whether those behavior-related provisions were implemented, and
 - (3) For any behavior-related provision that was not implemented, whether the failure to implement impacted the Student's conduct.
 - ii. (Consideration of the Student's Medical Treatment) The multidisciplinary committee will provide the Complainant with an opportunity to present evidence regarding the impact that medication (or lack of medication) for the Student's disabling condition may have had on the Student's conduct, and it will specifically address whether the Student's medical treatment impacted his conduct.
 - g. The District will reduce to writing both the multidisciplinary committee's decision regarding whether the Student's conduct was a manifestation of his disability and the committee's rationale for the decision.
 - h. The District will provide the Complainant with procedural safeguards regarding the multidisciplinary committee's decision.
2. If the Complainant submits timely consent, then within 20 calendar days of receipt of that consent, the District will conduct a manifestation determination hearing as specified, in Action Item 1, above.
 3. If, as a result of the manifestation determination hearing, the multidisciplinary committee determines that the Student's conduct was a manifestation of his disability, then the District will:
 - i. by February 20, 2018, expunge the Student's records related to the hearing office packet and placement in alternative school; thereby permitting him, should the Complainant choose, the option to enroll in Duval Charter School at Baymeadows, or any other District school for which the Student may qualify, including Duval Virtual Instruction Academy.
 - ii. by February 27, 2018, provide the Complainant with a copy of the Student's expunged disciplinary record for the incident in question.
 - iii. if the Complainant chooses to re-enroll the Student in a District school within 30 calendar days of the expungement, then, the District will, within 20 calendar days of the date of the Student's enrollment in a District school, convene a 504 meeting to:
 - (1) determine whether, and if so, how the Student's plan will be modified to include behavioral interventions, in an attempt to avoid recurrence of the conduct presented during the incident.
 - (2) determine what curriculum the Student missed as a result of not being enrolled in school between the time the Student stopped attending school and the date the Student re-enrolls in a District school.

- (3) create a written plan (remediation plan) identifying how, when, and where the Student will receive remediation to address the missed curriculum.
- (4) provide the Student remediation services, per any remediation plan created pursuant to Action Item 3 iii (3), above.
- iv. at the conclusion of the manifestation determination hearing, the District will inform the Complainant of Action Item 3, above.

REPORTING REQUIREMENTS:

1. By February 9, 2018, the District will submit to OCR a copy of the letter (referenced in Action Item 1, above) that it sent to the Complainant and either i) a copy of the Complainant's timely consent or ii) a statement explaining that the Complainant did not provide timely consent.
2. If the Complainant provides the District with timely consent, within 30 calendar days of conducting the manifestation determination, the District will provide OCR with documentation evidencing:
 - a. the date the manifestation determination hearing occurred.
 - b. who, by name and title, served as multidisciplinary committee members; including some notation that identifies any member who did not serve during any previous manifestation determination hearing regarding the incident.
 - c. the multidisciplinary committee's written decision and rationale regarding whether the Student's conduct was a manifestation of his disability.
 - d. procedural safeguards were provided to the Complainant.
3. If the multidisciplinary committee determines that the Student's conduct was a manifestation of his disability then, within 30 calendar days of conducting the manifestation determination, the District will provide OCR with:
 - i. a copy of the Student's expunged records related to the hearing office packet and placement in alternative school; thereby permitting him, should the Complainant choose, the option to enroll in Duval Charter School at Baymeadows or any other District School for which the Student may qualify, including Duval Virtual Instruction Academy.
 - ii. documentary evidence that the District provided the Complainant with a copy of the Student's expunged disciplinary record for the incident in question.
 - iii. documentary evidence that at the conclusion of the manifestation determination hearing, the District informed the Complainant of Action Item 3, above.
 - iv. should the Complainant re-enroll the Student in a District school within 30 calendar days of the expungement, then, the District will, within 30 calendar days of the date of the 504 meeting, provide OCR with a copy of:
 - (1) 504 meeting minutes (and, as applicable, a revised 504 Plan) evidencing the date that the Student's 504 team met and (a) considered whether, and if so, how the Student's plan would be modified to include behavioral interventions in an attempt to avoid recurrence of the conduct presented during the incident; (b)

determined what curriculum the Student missed as a result of not being enrolled in school between the time the Student stopped attending school and the date the Student re-enrolled in Duval Charter School at Baymeadows or any other District school for which the Student may qualify, including Duval Virtual Instruction Academy; and (c) created a written remediation plan identifying how, when, and where the Student would receive remediation to address the missed curriculum.

- (2) Within 20 calendar days of the date that any remediation plan (created pursuant to Action Item 3 iii (3), above) is scheduled to conclude, the District will provide OCR with a written statement either confirming that (1) the remediation plan was completed or (2) remediation services were offered but the remediation plan was not completed because the Complainant declined to permit the Student to participate in all or part of the plan.

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 Section 504 implementing regulation at 34 C.F.R. §§ 104.4(a) and (b) and the Title II implementing regulation at 28 C.F.R. §§ 35.130. 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 Resolution 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 60 calendar days to cure the alleged breach.

This Resolution Agreement will become effective immediately upon signature of the Superintendent or designee, below.

Superintendent (or Designee)

(Date)