

RESOLUTION AGREEMENT
CLARKSVILLE-MONTGOMERY COUNTY SCHOOL SYSTEM, TN
OCR Docket Number 04-20-1147

The U.S. Department of Education, Office for Civil Rights (OCR) and the Clarksville-Montgomery County School System (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, 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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

Prior to the completion of OCR's investigation, the District agreed to resolve the issue of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issue of this investigation, the District agrees to take the following actions:

1. By March 16, 2020, the District will take the following actions:
 - a. Conduct an individualized evaluation of the Student, in accordance with Section 504 and its implementing regulation at 34 C.F.R. 104.35(b), to ensure the Student has an equal opportunity to participate in the physical fitness components of the curriculum. The evaluation shall consist of assessments and evaluation materials selected and administered so as best to ensure that the assessment results accurately reflect the factors being measured for the Student rather than the Student's disability; include those tailored to evaluate the specific area of educational need and not merely those designed to provide a single intelligence quotient; and must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.
 - b. Convene a meeting with the Student's parent and a group of persons knowledgeable about the Student, the meaning of the evaluation data and the placement options to (i) discuss the results of the evaluation conducted pursuant to (a), and (ii) make a decision regarding what accommodations and/or services are necessary for the Student to have an equal opportunity to participate in the physical fitness components of the curriculum. The District will provide the Student's parent notice of the District's procedural safeguards including the right to challenge the group's determination through an impartial hearing.

Reporting Requirements:

By March 16, 2020, the District will provide OCR supporting documentation showing that, in accordance with Item 1, the District conducted an evaluation of the Student and a group of persons, including persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options, met and

discussed the Student's evaluation results and made a decision regarding what accommodations and/or services are necessary for the Student to have an equal opportunity to participate in the physical fitness components of the curriculum. The documentation shall include, but is not limited to, all evaluation materials and reports, the meeting minutes and participants, and the Section 504 plan evidencing the resultant accommodations and/or services.

2. By March 30, 2020, after providing proper written notice to the Student's parent, a group of knowledgeable persons, including the Student's parent, will convene a Section 504 meeting to determine whether, in light of the results of the actions taken pursuant to Item 1 of the Agreement, the Student requires compensatory and/or remedial services. If so, within 1 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 May 21, 2020. The District will provide the Student's parent notice of the District's procedural safeguards including the right to challenge the group's determination through an impartial hearing.

Reporting Requirements:

- (a) By March 30, 2020, the District will provide OCR supporting documentation showing the group's decision as to whether compensatory and/or remedial services are needed. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for the decisions made, the information considered, and a description of and schedule for providing compensatory and/or remedial services (if any) to the Student.
- (b) By May 21, 2020, if applicable, the District will provide OCR documentation of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

The District understands that by signing the Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the District understands that during the monitoring of the 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 and obligations of the Agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or the applicable statutes and regulations. Before initiating such proceedings, OCR will 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 signature of the District's Director of Schools or designee below.

/s/

February 24, 2020

Director of Schools or Designee
Clarksville-Montgomery County School System

Date