

RESOLUTION AGREEMENT
Lewis County School District
OCR Complaint #04-22-1338

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and the Lewis County School District, enter into this 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; 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 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:

STUDENT REMEDIES

1. **By October 14, 2022**, the District, after providing proper written notice to the Complainant, and at a mutually agreeable time, will convene a group of knowledgeable persons, including the parents/ guardians, to evaluate and determine whether the Student is eligible for special education and/or related aids and services under Section 504. If the Student is determined eligible, a Section 504 Plan will be developed for the Student, ensuring that copies are provided to the parents/guardians and the Student's teachers. The team will also determine what compensatory education or other remedial services the Student requires for the time period the Student did not receive aids and services from January through the end of the 2021-2022 school year, and develop a written plan for providing compensatory education or other remedial services deemed necessary, including who will provide the services, when/how often and where the services will be provided, and the start and projected end dates of the services which will be provided at no cost to the Complainant and will become a part of the Student's current Section 504. The District will provide the Complainant notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENT:

By October 28, 2022, the District will submit to OCR documentation showing implementation of Action Item 1 above, including a copy of the written notice provided to the Complainant, her response, and if appropriate, any Section 504 meeting minutes, a copy of any Section 504 plan developed for the Student, copy of the plan to provide compensatory services if such are deemed necessary, and documentation of any input provided by the Student's parents. The District will also provide OCR with proof that procedural safeguards were provided to Complainant, and any other documentation considered and relevant to the determinations reached in accordance with Action Item 1

above. Should the District determine that the Student is not eligible, the District will provide OCR with a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

EVALUATION AND PLACEMENT

2. By October 14, 2022, the District will assess its Section 504 processes at the District and School, and modify such as necessary to ensure that the evaluation, placement and implementation requirements of the Section 504 regulation at 34 C.F.R. §§ 104.33-104.36 are being satisfied, as follows:

- a) Promptly identifying and evaluating within a reasonable period of time, all students within its jurisdiction who, because of disability need or are believed to need, regular or special education or related aids and services, even if the student does not qualify for special education services under the Individuals with Disabilities Education Act (IDEA) and regardless of whether the student is or will be receiving homebound services;
- b) Evaluating students for possible disability/s by utilizing the correct definitions of an individual with a disability, substantial impairment and major life activities consistent with Section 504 and Title II eligibility criteria in the Section 504 regulation at 34 C.F.R. § 104.3(j), and the Title II regulation at 28 C.F.R. §35.104, in comparison to the different eligibility criteria under IDEA;
- c) Evaluating students for possible disability/s by utilizing properly tailored tests/ observations and ensuring that all such information as well as any information provided by the parents/guardians and private evaluations, if any, are carefully documented and considered, convening a Section 504 meeting, and, if appropriate, creating a Section 504 plan that provides the full range of related aids and services needed including any special education services.
- d) Providing parents/guardians with adequate information about the procedural safeguards, including proper notice and an opportunity to participate and examine relevant records, notice of the District's determination of whether a student is eligible under Section 504, and what services, if any, will be provided to a disabled student under Section 504, and the review procedure available; and
- e) Generally ensuring that both staff and parents/guardians are aware of the various roles of the Section 504 Coordinator and other evaluation staff and steps that will be taken to evaluate a student.

REPORTING REQUIREMENT:

By October 28, 2019, the District will provide OCR: (i) the results of the District's assessment pursuant to Action Item 2, including a summary of the information reviewed during the assessment; (ii) a summary of any modifications implemented based upon the assessment and a copy of all forms or other documents to be used by the Section 504/Special education staff pursuant to the modifications; and, (iii) documentation demonstrating the implementation of the modifications.

3. **By October 3, 2022**, the District will add a reference to its Homebound Policy, online and in Handbooks, which explains that before placing any student on homebound, who the District knows, or has reason to believe may need related aids or services pursuant to 504, the District must 1) evaluate the student to determine eligibility for special education/Section 504 services (if not already done), or 2) convene a meeting of the student's 504 Team or IEP team (if the student is already receiving related aids and services per a 504 Plan or IEP) to determine whether such placement will ensure continuation of the student's related aids and services during the homebound placement to ensure the student receives a FAPE.¹

REPORTING REQUIREMENTS:

By November 1, 2022, the District will submit to OCR a copy of the amended evaluation/placement and homebound policies with links to the posting online and a copy of the Student Handbook, which includes publication of the amended evaluation and homebound policies.

TRAINING

4. **By November 1, 2022**, the District will provide Section 504/Title II training to all District and School administrators and staff who participate in considering students for special education/Section 504/Title II eligibility. The Section 504/Title II training shall include at a minimum the topics listed above under Item 2 a)-e), as well as any modifications made pursuant to the District's assessment under Item 2. If any modifications are made, the District will provide relevant School administrators and evaluation staff with a memorandum that summarizes the modifications made.

REPORTING REQUIREMENT:

By November 15, 2022, the District will provide OCR documentation demonstrating that it has conducted training pursuant to Action Item 4. The documentation shall include: (a) the date of the training sessions; (b) name and title of the individuals who attended the training sessions (including dated sign-in sheets with the attendees' names,

¹ The Section 504 implementing regulation at 34 C.F.R. § 104.33(b)(1) and (2) defines a FAPE as "the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 104.34, 104.35, and 104.36. Implementation of an individualized educational program (IEP) in accordance with the Individuals with Disabilities Education Act is one means of meeting this standard."

titles and work locations); (c) a copy of the agenda and the training materials disseminated; and (d) a copy of the memorandum and list of staff to whom the memorandum was provided, if appropriate.

- 5. By **November 1, 2022**, the District will conduct training to all faculty and staff responsible for evaluating students with disabilities and providing homebound services on the District’s amended Homebound services policy identified in Item 3, and the requirement of Section 504 to ensure that students who receive related aids and services pursuant Section 504 continue to receive those services while on homebound. Such training will also cover the protocols for permitting students with disabilities receiving homebound educational services to be on campus for educational and/or extracurricular activities.

REPORTING REQUIREMENT:

By **November 15, 2022**, the District will submit documentation to OCR showing: 1) the name of the person provided the training; 2) the date of the training session; 3) a description of the presenter’s background and qualifications with respect to knowledge of Section 504 and Title II; and 4) a copy of the agenda and the training materials disseminated.

By signing the resolution agreement, the recipient agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. During the monitoring of the resolution agreement, if necessary, OCR may visit the recipient, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the recipient has fulfilled the terms of the resolution agreement;

The recipient understands that OCR will not close the monitoring of the agreement until such time as OCR determines that the recipient is in compliance with the terms of the agreement and the statute(s) and regulation(s) at issue in the case; and

The recipient understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms of the resolution agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the recipient 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.

/s/

8/20/2022

Signature of Superintendent (or Designee)

(Date)

Printed Name of Superintendent (or Designee)