

Resolution Agreement
Bismarck Public Schools
OCR Complaint # 05-14-1258

Bismarck Public Schools (District) submits the following agreement to the U.S. Department of Education, Office for Civil Rights (OCR) in resolution of OCR complaint #05-14-1258. The District submits this agreement to ensure its compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. §794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

By entering into this Resolution Agreement, the District does not admit any violation of Section 504 or Title II with regard to the allegation in the complaint. Nothing contained in this Resolution Agreement shall be considered, construed, or used as an admission of wrongdoing, liability, statutory or regulatory violation, or any other illegal or improper act, by the District.

1. By January 1, 2015, the Solheim Elementary School (School), will provide training to all School staff involved in identifying, evaluating, making placement decisions, providing educational services for students with disabilities, and/or providing procedural due process to the parents or guardians of such students (including but not limited to principals, counselors, school psychologists, teachers, and special education staff) on the Section 504 regulation at 34 C.F.R. § 104.35(a), which requires a school district to conduct an evaluation in accordance with the requirements of 34 C.F.R. § 104.35(b) before taking an action with respect to initial placement of students in regular or special education, and any significant change in placement. The School will also provide training to the identified School staff on the Section 504 regulation at 34 C.F.R. § 104.36, which requires a district to provide “a system of procedural safeguards that includes notice, an opportunity for participation by the person’s parents or guardian of the person to examine relevant records, an impartial hearing with an opportunity for participation by the person’s parents or guardian and representation by counsel, and a review procedure” with respect to actions regarding the identification, evaluation or educational placement of the student.

REPORTING REQUIREMENT: By January 15, 2015, the School will submit to OCR documentation verifying that it has implemented Item 1 of the Agreement. Such documentation shall include, at a minimum, attendance sheets for the participants in the staff training, a description of the training as well as a copy of the materials distributed to participants, and the name, title and qualifications of the trainer.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), 104.33, 104.35, and 104.36 which were at issue in this case.

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 the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), 104.33, 104.35 and 104.36, which were at issue in this case.

Approved and agreed to on behalf of District by:

For the District

Date