

Resolution Agreement #05-15-1098

Porter County Education Services (PCES) submits the following resolution agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR) in resolution of OCR complaint #05-15-1098. PCES submits this Agreement to ensure its compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 - 12134, and its implementing regulation, at 28 C.F.R. Part 35.

PCES agrees to take the actions enumerated below.

I. Review of Placement Options

- A. By August 30, 2017, PCES will identify and review all of the special education programs and services available in Porter County schools. PCES will identify all available placement options for less restrictive placement for the categories of school age students attending SELF (developmental kindergarten, Multiple Disability; Orthopedic Impairment; Blind/Low Vision; Deaf/Hard of Hearing; Emotional Disability; Specific Learning Disability; Developmental Delay; Language/Speech Impairment; Mild Cognitive Disability; Moderate Cognitive Disability; Severe Cognitive Disability; Autism; and Other Health Impairment).
- B. To the extent gaps in the continuum of alternative placements, and/or the need for additional programs, program expansions, program modifications or individually tailored supplementary aids and services that would allow any student now placed at SELF to be placed in a less restrictive environment are identified through PCES's review in I.A., PCES will take steps to offer such programs and services to students for whom such program or service is determined appropriate during the IEP reviews held pursuant to Parts II and III of this Agreement.
- C. PCES will identify possible opportunities for students for whom SELF is the least restrictive placement to participate in nonacademic and extracurricular services and activities with nondisabled students to the maximum extent appropriate, including the types of supplementary aids and services to support such participation. The selection of opportunities for individual SELF students to participate in nonacademic and extracurricular services and activities with nondisabled students to the maximum extent appropriate will be determined pursuant to the case conference/IEP meetings held pursuant to state and federal laws and regulations or Part II and Part III of this Agreement.

REPORTING REQUIREMENTS

By August 30, 2017, PCES will provide OCR with documentation of the review required in I.A. above, including the following:

- 1) The PCES administrators conducting the review and the information considered;
- 2) A listing of all special education teachers and related service personnel in Porter County schools, showing for each individual:
 - a. the participating district and school(s) in which the individual provides instruction or service;
 - b. the least restrictive code specified by the IEP and provided by Indiana IEP requirements for each student served by the teacher or related service provider; and
 - c. the home district, age and primary disability category of each student served in each setting identified in 2.b. above.
- 3) Identification of any new programs or services or modifications of existing programs and services that could facilitate a less restrictive placement of the categories of students now placed at SELF;
- 4) PCES' reasons for proposing or not proposing new or modified programs and services for each category of disability; and
- 5) A description of opportunities that may be considered appropriate for students for whom SELF is the least restrictive environment to participate in nonacademic and extracurricular services and activities with nondisabled students to the maximum extent appropriate, including the activities identified in I.C.

II. Least Restrictive Environment Procedures and Documentation

- A. PCES will ensure that when IEP meetings for individual students are held, a continuum of options as required by state and federal law is reviewed to determine an appropriate placement for students now placed at SELF with the provision of supplementary aids and services to support less restrictive placements. By September 30, 2017, PCES will develop procedures to ensure that each school age student placed at SELF is placed in the least restrictive environment to the maximum extent appropriate to the individual student's needs and is provided nonacademic and extracurricular activities with nondisabled students to the maximum appropriate. Under these procedures, each student's file will document that the following issues have been considered by the Case Conference Committee, including the specific information considered: (a) current information about the student's characteristics and the student's specific service needs; (b) the student's specific service needs that cannot reasonably be met in a regular class or in a special education class in a regular school; (c) the alternative special education programs and services considered as identified in I.A. and I.B. above, including special education programs located in districts other than the student's home district as appropriate.

- B. Under these procedures, even if it is determined that it is not appropriate for the student to be placed in a regular school environment, the review will consider whether the student could benefit from nonacademic and extracurricular activities and services with nondisabled students, such as, meals, recreational activities, special interest clubs, art, music and physical education (including the activities outlined in I.C.), and provide an explanation of the determination made. If it is determined that the student would benefit from nonacademic and extracurricular activities with nondisabled students, PCES will identify within the student's IEP the particular appropriate activities available for the student to participate and any modifications or supplementary aids and services that are likely to be needed to allow for such participation.
- C. PCES will takes steps to ensure that the parent or guardian of each SELF student is informed of the before or after school extracurricular activities offered by the home school district and the availability of supplementary aids and services to facilitate such participation.
- D. Within 20 school days after OCR notifies PCES that OCR has reviewed and approved the procedures stipulated in II.A. and II. B. above, the PCES will initiate implementation of the procedures.
- E. PCES will provide information and training to its staff to its SELF School as necessary to implement these procedures.

REPORTING REQUIREMENTS

- 1) By September 30, 2017, PCES will provide OCR with a copy of the procedures developed and a written description of any training planned for SELF staff.
- 2) PCES will notify OCR in writing within five (5) school days after it initiates implementation pursuant to I.D. above. PCES will also describe the training provided to its staff pursuant to II.E.

III. Individual Student Reviews

- A. Beginning November 1, 2017, PCES will include in its annual IEP review for each student a review of the placement of each school age student then placed at SELF or is being considered for placement at SELF pursuant to the procedures outlined in II.A. and II.B. above that demonstrate that each such student is placed in the least restrictive placement, including a determination as to whether the student would benefit from interaction with nondisabled students in activities such as lunch, art, music and physical education.
- B. For each student that PCES determines can be appropriately placed in a less restrictive environment and/or would benefit from opportunities to interact with

nondisabled students in nonacademic and extracurricular services and activities, PCES will implement the determination within 10 school days from date of notice of the Case Committee Conference Report or as otherwise specified by IEP consistent with state regulations.

REPORTING REQUIREMENTS

- 1) By November 30, 2018, PCES will provide OCR with documentation of the implementation of III.A. and III.B., including the names (or other identification) of the students for whom IEP meetings were conducted, an explanation of any changes of placement made or planned, and any specific steps taken to provide opportunities for interaction of students placed at SELF with nondisabled students as the least restrictive placement to the maximum extent appropriate.
- 2) By December 30, 2018, PCES will provide OCR, as requested, with relevant portions of student files documenting the process outlined in II.A. and II. B. for 40 % of school age students drawn from each of the various disability categories represented by students placed at SELF School. (In the event the disability category is less than three students, then 100% will be used.) All percentages would be rounded up to the nearest whole number.) PCES will also provide OCR with the relevant portion of the files of all students who are newly considered for placement at SELF between September 1, 2017 and November 30, 2018.

IV. Students Enrolled in Physical Education, Music and Art

- A. By September 30, 2017, PCES will provide teachers licensed in physical education, music and art to secondary school students at SELF (grades 7-12) enrolled in art, music or physical education in a regular diploma program as consistent with Indiana Department of Education (IDOE) licensing rules.

REPORTING REQUIREMENTS

- 1) By September 30, 2017, PCES will report to OCR the number of SELF students and their disability category in grades 7-12 enrolled in art, music or physical education in a regular diploma program and whether such students are served by teachers licensed in art, music or physical education. PCES will provide an explanation for any such student not served by teachers licensed in art, music or physical education pursuant to IDOE licensure rules.

PCES 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, PCES understands that during the monitoring of this Agreement, if necessary, OCR may visit the PCES, interview staff and students, and request such additional reports or data as are necessary for OCR to

determine whether the PCES has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.34(a), 104.34(b), and 104.37, and Title II and its implementing regulation at 28 C.F.R. § 35.130. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

PCES 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 PCES 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 PCES's named representative below.

On Behalf of PCES

Date