

**Resolution Agreement
Fargo Public School District #1
OCR Docket #05-17-1343**

The U.S. Department of Education, Office for Civil Rights (OCR) and Fargo Public School District #1 (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), 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, 42 U.S.C. §§ 12131-12134, and its implementing regulation at 28 C.F.R. Part 35. Section 504 and Title II prohibit discrimination on the basis of disability in any education program or activity operated by a recipient of Federal financial assistance from the Department and public entity, respectively.

The District agrees to the following:

Policies and Procedures

1. By **February 12, 2018**, the District will review, and revise if necessary, its Special Education Procedural Handbook to make certain such policies and procedures contain the necessary components to ensure that the District will timely adhere to the identification, evaluation, placement and due process procedures in the regulation implementing Section 504 at 35 C.F.R §§ 104.35 and 104.36 when it has reason to believe a student may be a student with a disability in need of special education or related services including upon parental request.

REPORTING REQUIREMENT: By **February 12, 2018**, the District will submit any revised policies and procedures to OCR for review and approval.

2. Within 60 calendar days of written notification of OCR's approval of any revised policies and procedures developed in accordance with Item 1, the District will adopt and implement the revised policies and procedures and will provide all parents, administrators, teachers, and staff with written notice regarding the new policies and procedures. The revised policies and procedures will also be placed on the District's website and included in the Handbook for the 2018-2019 school year.

REPORTING REQUIREMENT: By **June 15, 2018**, the District will provide OCR with documentation that it has implemented Item 1, including copies of the written notices issued to parents, administrators, teachers, and staff and a link to the revised policies and procedures on its website.

Staff Training

3. By **August 17, 2018**, the District will provide training to all administrators, teachers, and relevant staff at Discovery Middle School (School) responsible for the identification,

evaluation, and placement of students with disabilities. The training will specifically address the District's revised policies and procedures regarding the evaluation of a student who the District has reason to believe may be a student with a disability in need of special education or related services to ensure that the District provides a free and appropriate education (FAPE) to these students under Section 504 at 35 C.F.R §§ 104.33, 104.35 and 104.36.

REPORTING REQUIREMENT: By **August 31, 2018**, the District will provide OCR with documentation that it has provided the training required in Item 3, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the staff who attended the training.

Individual Remedies

4. Within 2 weeks of the date this agreement is signed, the District will request in writing the Complainant's consent to conduct an initial evaluation of Student A to determine whether Student A is a student with a disability in need of special education or related services. In requesting the Complainant's consent to an initial evaluation, the District will inform the Complainant that it will convene a team knowledgeable about Student A, which shall include the Complainant, to consider all information provided by the Complainant including information from Student A's prior school as well as outside medical providers and counselors. If the Complainant consents to an initial evaluation, the evaluation will be conducted in accordance with District's Section 504 policies and procedures within 60 school days. The Complainant will be provided with a copy of the District's procedural safeguards informing her of her procedural safeguards, including her right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENT: Within 2 weeks of the date this agreement is signed, the District will provide OCR with a copy of the letter sent to the Complainant regarding Item 4 and documentation that the District provided the Complainant with a copy of the District's procedural safeguards.

5. Upon receipt of the Complainant's consent to an initial evaluation of Student A for special education and/or related services, the District will conduct an evaluation of Student A in accordance with the requirements of Section 504 at 35 C.F.R § 104.35. In the event that the team finds Student A eligible for special education and/or related aids and services, and in the event the Complainant provides consent to the provision of special education and related services, the team will determine what, if any, compensatory services are needed as a result of the School's failure to conduct an evaluation in XXXXXX. In evaluating the need for compensatory services, the District will consider whether Student A's grades, attendance and/or disciplinary records need to be modified to account for performance, attendance and/or conduct. The District will make any modifications, and will notify necessary parties, including the juvenile court, of these changes within 4 weeks of the completion of the evaluation process. The team will develop a plan for providing compensatory services, if any, with a completion date not to extend beyond June 30, 2018.

REPORTING REQUIREMENT: By no later than June 30, 2018, the District will provide OCR with documentation, including a statement explaining the team’s decisions (including the team’s determination of whether Student A is an individual with a disability in need of special education and/or related services), a copy of the plan developed by the team, if any, and a description of and schedule for providing any compensatory services to Student A. The District will also provide documentation that any changes were implemented, the Complainant was informed of the changes, and any additional parties, including the juvenile court, were informed of the changes as well.

The District 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, 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, including simulated website accounts and passwords, 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, 104.33, 104.35, and 104.36. 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 Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the University 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 the District’s representative below.

Superintendent

Date