

**Resolution Agreement
OCR Complaint #05-22-1513
McLean County Unit District No. 5**

The McLean County Unit District No. 5 (District) submits the following agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR) in resolution of OCR complaint #05-22-1513. 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 its implementing regulation, at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131– 12134, and its implementing regulation, at 28 C.F.R. Part 35, with respect to the issues raised in the complaint.

The District agrees to the following:

Best Program Hours

1. By February 1, 2023, the District will ensure that students with disabilities, including students in the BEST Program, have the same access to the District’s educational program, services, and activities, including the same bell-to-bell and instructional minutes per school day, as their non-disabled peers. The District will publish the new hours for the BEST Program (a) in the BEST Program Handbook, (b) on the Colene Hoose Elementary School homepage on the District’s website by posting the revised BEST Program Handbook, and (c) written notification to the parents/guardians of students currently in the BEST Program.

REPORTING REQUIREMENT: By February 15, 2023, the District will provide documentation to OCR verifying that it has implemented Item 1 of this Agreement, including a copy of the revised BEST Program Handbook and a link to the BEST Program hours on the Colene Hoose Elementary School homepage on the District’s website.

Individual Student Reviews and Compensatory Education

2. By May 23, 2023, for each student enrolled in the BEST Program during the 2021-2022 and/or 2022-2023 school years, the District will, after providing appropriate notice and procedural safeguards to the student’s parent(s) or guardian(s), convene an Individualized Education Program (IEP) team meeting with a group of persons knowledgeable about the student, including the student’s parent(s) or guardian(s). At the meeting, the team will:
 - a. Review and revise, as necessary, the student’s educational placement and related aids and services to ensure that the student receives a FAPE in accordance with 34 C.F.R. §§ 104.33-104.36. If the student is currently enrolled in the BEST Program, the team will make individualized determinations based on the student’s educational needs, including but not limited to the student’s educational setting, i.e., academic setting and nonacademic settings.

- b. If the team determines a shorter school day is necessary to provide FAPE, the student’s IEP will note the required hours of attendance and contain documentation of the reason(s) for the shortened school day.
- c. Determine whether the student was denied a FAPE due to a shortened school day or due to not participating in nonacademic services with nondisabled peers. If so, the team will determine whether compensatory and/or remedial educational services are necessary.

For those students for whom the team determines compensatory and/or remedial services are necessary, the team will develop a plan for providing compensatory and/or remedial services with a completion date not to extend beyond September 1, 2023. The plan will identify the type, frequency, location, and duration of services to be provided at no cost to the student’s parent(s) or guardian(s), as well as the credentials of the individual(s) providing the service(s).

For those students for whom the team determines compensatory and/or remedial services are not necessary, the team will provide the rationale for the determination and the information relied upon to support the determination.

REPORTING REQUIREMENT: By May 31, 2023, the District will provide a copy of each student’s IEP and team meeting minutes documenting the discussion regarding the student’s individualized needs and services as detailed in Item 2(a) and 2(b). For those students who were determined to be in need of compensatory education and/or remedial services, the District will also provide to OCR a copy of the plan for providing the student compensatory and/or remedial services. By September 15, 2023, the District will provide documentation to OCR of the type, dates and times, and locations of any compensatory and/or remedial services that were provided, and the name(s) of the service provider(s).

Training

- 3. By May 23, 2023, the District will provide effective training by a qualified individual to specified District administrators (i.e., the Superintendent, Assistant Superintendent, Director of Diversity, Equity, and Inclusion, Directors of Elementary and Secondary Education, Director of Special Education and Special Education Administrators and Coordinators, Principals and Assistant Principals) and special education staff who hold professional educator licensure, including case managers, teachers, and related service providers, with responsibilities for students with disabilities under the Section 504 and Title II on the District’s obligation to provide students with disabilities a FAPE in accordance with 34 C.F.R. §§ 104.33-104.36. However, all BEST Program staff who hold professional educator licensure and Colene Hoose Elementary School and/or District administrators who participate in IEP meetings for BEST Program students will be trained by February 21, 2023. Training may be provided virtually or in-person, and the training tool will be pre-approved by OCR. The District will ensure, at a minimum, that the training includes an explanation of the requirement to make individualized determinations following proper procedures for all aspects of a student’s FAPE (*e.g.*, the amount of instructional time or need for a shortened school day; the need for additional

instruction during lunchtime or other transition periods; availability of breaks or shortened breaks throughout the school day); the necessity to fully implement students IEPs; and the necessity to educate students with disabilities with their non-disabled peers to the maximum extent appropriate to their needs.

REPORTING REQUIREMENT: By May 30, 2023, the District will provide to OCR documentation of the training required by Item 3, including: the name of the individual(s) who conducted the training and their qualifications; the date(s) of the training session(s); all training materials; and a list of personnel (including titles) who attended each training session.

4. By May 23, 2023, the District will conduct pre- and post-tests of the individuals who attended the training. The pre- and post-tests will be pre-approved by OCR and will specifically assess the individual’s knowledge of the necessity to make individualized determinations for all aspects of a student’s FAPE, to fully implement students IEPs, and to educate students with disabilities with their non-disabled peers to the maximum extent appropriate to their needs.

REPORTING REQUIREMENT: By May 30, 2023, the District will provide OCR with documentation of the assessment required by Item 4. If additional training is determined by OCR to be necessary, the District will provide OCR documentation verifying that it provided additional training by September 15, 2023.

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. 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.

The District understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the District is in compliance with the terms of this Agreement and Section 504, 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, and Title II, 42 U.S.C. §§ 12131– 12134, and its implementing regulation, at 28 C.F.R. Part 35, which were at issue in this case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of a breach. 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.

Approved and agreed to and on behalf of the District:

Superintendent or designee

Date