

**Resolution Agreement  
Lonoke School District  
OCR Complaint #06-15-1463**

The Lonoke School District (District) agrees to implement this Resolution Agreement (Agreement) to resolve a compliance issue identified during the investigation of the above referenced complaint, which was opened for investigation by the U. S. Department of Education (Department), Office for Civil Rights, (OCR). The District will take the following actions to ensure that the District is in 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

The District states that this Agreement is not an admission of liability, nor of unconstitutional or illegal conduct by, or on the part of the District or any of its current, future or past administrators, employees, or board members.

1. By December 4, 2015, the District will conduct an evaluation and convene a meeting consistent with the requirements of 34 C.F.R. § 104.35 to determine whether the Student is eligible to receive accommodations under Section 504 and Title II. The evaluation will be conducted consistent with the requirements of Section 504 at 34 C.F.R. § 104.35(b) and (c), and documentation from the evaluation will show that the placement decision was based upon careful consideration of information from a variety of sources (as described at 34 C.F.R. 104.35(c)(1)), that the placement decision was made by a group of persons, (as described at 34 C.F.R. 104.35(c)(3)) and that the placement decision was made in conformity with 34 C.F.R. 104.34.
  - a. In determining whether the Student is eligible for accommodations under Section 504 and Title II, the District will take into consideration the following factors: (1) Federal and state laws regarding identification and evaluation of students with disabilities; (2) District policy and procedures regarding identification and evaluation of students with disabilities; (3) observations from teachers and administrators familiar with the Student; (4) input from the Complainant, including information that the Student's XXX (5) medical records of the Student provided to the District; (6) the Student's disciplinary record; (6) the Student's academic record; and (7) any other documents or evidence relevant to the determination.
  - b. Ameliorative effects will not be considered when determining whether the Student has a substantially limiting impairment. For guidance, the District may refer to *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools* at <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-504faq-201109.html>.
  - c. The District shall promptly notify the complainant in writing of the determination (along with notice of Procedural Safeguards) and, if applicable, begin implementing the services that the Student is found eligible to receive.

2. By December 18, 2015, the District will determine whether the Student shall be provided additional educational instruction due to any educational loss experienced during 2014-2015 and 2015-2015 school years resulting from the District's failure to provide accommodations under Section 504 and Title II to the Student.
  - a. The District shall promptly notify the complainant in writing of its determination regarding whether any failure to provide accommodations under Section 504 and Title II to the Student caused the Student an educational loss. If so, then a written description of the additional educational instruction will be offered to the Student and the complainant (by mail, certified return receipt). These services are to be provided at no cost to the complainant.
  - b. The District will also determine whether the Student's behavior that resulted in discipline was a manifestation of the Student's disability. If the District determines that any of the Student's behavior was a manifestation of the Student's disability, the discipline record(s) for those incidents shall be removed from the Student's record, and the District shall offer to provide additional educational instruction to the Student related to the educational loss experienced as a result of the Student's suspension(s) and other forms of discipline in which the Student was excluded from his regular educational setting, if not already offered in compliance with Paragraph 2a of this Agreement.

REPORTING REQUIREMENT 1: Within fourteen (14) calendar days after the meeting described in Paragraph 1 of this Agreement and within ten (10) school days after the meeting(s) described in Paragraph 2 of this Agreement, the District will submit documentation to OCR demonstrating that it has fully complied with Paragraphs 1 and 2 of the Agreement. Such documentation will include:

- a. Documentation of the District's invitation (by mail, certified return receipt) to the complainant to attend the meeting(s) and obtain her input.
- b. A list of the individuals who attended the meeting(s), including each individual's name, title, and role in the meeting.
- c. Documentation reflecting the content of the evaluation conducted by the District and, if applicable, documentation reflecting that any formal assessments and/or other evaluation tools were arranged and paid for by the District.
- d. Notes from the meeting(s) documenting that the District carefully considered input from persons knowledgeable about the Student.
- e. Documentation of the District's conclusions and a copy or summary of the information the District considered in reaching those conclusions.
- f. Documentation of the District's notice to the complainant of the determination(s) with notice of Procedural Safeguards, which includes the right to challenge the District's determination via an impartial hearing.

- g. A copy of the Section 504 Plan or other type of individualized plan(s) put in place for the Student.
  - h. A copy or summary of the District’s determination regarding the Student’s behavior as a manifestation of the Student’s disability.
  - i. If additional educational instruction is necessary, a copy of the plan for the prompt provision of additional educational instruction to the Student.
  - j. If applicable, evidence that the Complainant was notified in writing of the additional educational instruction offered by the District.
3. The District will draft, for OCR’s approval, in-service training materials which cover the items listed below. An individual or individuals knowledgeable about the laws and issues pertaining to Section 504 and Title II will provide the training. The individual or individuals who provide the training will not be employees of the District.
- a. The training will include the District’s obligations under Section 504’s requirements at 34 C.F.R. §§ 104.33–36.
  - b. The training will include a focus on providing a FAPE under Section 504 to students with asthma, food allergies, and behavioral impairments resulting from medication of these disabilities, including: (a) the obligation to evaluate any child who needs or is believed to need accommodations under Section 504 and Title II; (b) how to identify students who may qualify for services under Section 504; and (c) how to determine services that are appropriate for those students.
  - c. The training will emphasize that in the definition of “Disability,” the phrase “substantially limits” shall be interpreted without regard to the ameliorative effects of mitigating measures, other than ordinary eyeglasses or contact lenses. Mitigating measures are things (like medications and assistive devices) that an individual may use to eliminate or reduce the effects of an impairment. These measures may not be considered when determining whether a person has a substantially limiting impairment. For example, a student who has an allergy and requires allergy shots or use of the EpiPen to manage that condition would be covered under Section 504 and Title II if, without the shots or injection, the allergy would substantially limit a major life activity; or a student who has asthma and requires an inhaler or other medication to manage that condition would be covered under Section 504 and Title II, if without the inhaler or other medication, the asthma would substantially limit a major life activity.

**REPORTING REQUIREMENT 2:** By December 11, 2015, the District will submit documentation to OCR demonstrating that it has fully complied with Paragraph 3 of the Agreement. Such documentation will include:

- a. The draft training materials for OCR’s review and approval.

- b. Identification of the intended trainer(s) and information about the trainer’s qualifications.
4. By January 15, 2016, or within fifteen (15) calendar days of OCR’s approval of the training materials, whichever occurs later, the District will conduct an in-service training using the materials approved by OCR. Attendees at this training will include all employees in the District who may be involved in identifying, evaluating, or determining eligibility of a student under Section 504 (i.e., administrators, specialists, counselors, teachers, etc.).

**REPORTING REQUIREMENT 3:** Within ten (10) calendar days after the conclusion of the training, the District will submit to OCR proof that the training was provided. Such documentation will include:

- a. The handouts for the training;
  - b. The date and time the training was held;
  - c. The name(s) and qualifications of the training instructor(s); and
  - d. A copy of a sign-in sheet from the training, including the name, title and signature of each participant, along with a written assurance that all required attendees were present during the training.
5. Within thirty (30) calendar days after the training (as described in Paragraph 4 of this Agreement), based on the information gained from the training, the District will conduct another evaluation of the Student consistent with the requirements in Paragraph 1 of this Agreement, to ensure that the Student has been properly evaluated and the Student’s accommodations are appropriate.

**REPORTING REQUIREMENT 4:** Within fourteen (14) calendar days after the evaluation described in Paragraph 5 of this Agreement, the District will submit documentation to OCR demonstrating that it has fully complied with Paragraph 5. Such documentation will include:

- a. Documentation of the District’s invitation (by mail, certified return receipt) to the complainant to attend the meeting(s) and obtain her input.
  - b. A list of the individuals who attended the meeting(s), including each individual’s name, title, and role in the meeting.
  - c. Documentation reflecting the content of the evaluation conducted by the District and, if applicable, documentation reflecting that any formal assessments and/or other evaluation tools were arranged and paid for by the District.
  - d. Notes from the meeting(s) documenting that the District carefully considered input from persons knowledgeable about the Student.

- e. Documentation of the District’s conclusions and a copy or summary of the information the District considered in reaching those conclusions.
- f. Documentation of the District’s notice to the complainant of the determination(s) with notice of Procedural Safeguards, which includes the right to challenge the District’s determination via an impartial hearing.
- g. A copy of the Section 504 Plan or other type of individualized plan(s) put in place for the Student.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that, during the monitoring of the Agreement, 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 the Agreement and is in compliance with the statutes and regulations that were at issue in this case.

The District understands that OCR will not close the monitoring of the Agreement until such time that OCR determines that the District has fulfilled the terms of the Agreement and is in compliance with the statutes and regulations that were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

**For the District:**

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Dr. Suzanne Bailey, Superintendent  
Lonoke School District

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Date