

RESOLUTION AGREEMENT

Bossier Parish School Board (BPSB) OCR Complaint No. 06-15-1598

The Bossier Parish School Board (BPSB or District) agrees to resolve the allegations of discrimination on the basis of disability contained in complaint number 06-15-1598 filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The BPSB submits this Resolution Agreement (Agreement) to ensure compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 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 understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36, and Title II, at 28 C.F.R. §§ 35.130(a) and (b)(1)(iii), which were at issue in this case. The District also 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. §§ 104.33, 104.34, 104.35 and 104.36, and Title II, at 28 C.F.R. §§ 35.130(a) and (b)(1)(iii), which 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 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 District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement has been entered into voluntarily by the BPSB. By voluntarily entering into this Agreement, it is understood that this is not an admission by the BPSB of any act that is not in compliance with Section 504 or Title II, or their implementing regulations.

Action Items 1.1 -1.3, 1.5- 1.7, 2.1, 2.2, 3.1, 3.2, and 3.5 relate to Issue 1, as identified in the initial notification letter, dated September 16, 2015. Action Items 1.4, 1.8, 3.3 3.4, 3.6, and 3.7 relate to Issue 2, as identified in the initial notification letter, dated September 16, 2015.

ACTION ITEM 1: Training/Education

- 1.1** By October 3, 2016, the BPSB will provide training, by a qualified individual, to all staff at XXXXXXXXXXX XXXXX XXXXXXXXXXXX School (XXXX) who are directly involved in processing, investigating and/or resolving complainants or other reports of disability harassment complaints, and any counselors, teachers, or other XXXX personnel

who are likely to receive reports of disability harassment. The training should include instruction regarding:

- (a) In-depth instruction on what type of conduct constitutes disability-based harassment, including addressing examples of disability-based harassment, and a discussion about the negative impact that such harassment has on the educational environment;
- (b) The BPSB's responsibility under Section 504 and Title II to address disability-based incidents of harassment about which it knows or reasonably should have known;
- (c) Identification of designated staff at SPES who is/are available to answer questions or concerns regarding the BPSB's policies, practices, regulations or other issues related to disability-based harassment;
- (d) The BPSB's responsibility to take immediate and appropriate action to investigate incidents of disability harassment;
- (e) How to conduct disability harassment investigations in an adequate, reliable, and impartial manner, including the appropriate standards to apply in such investigations, an outline of the appropriate disciplinary measures for violations of the BPSB's anti-harassment policy in accordance with the BPSB's Student Code of Conduct;
- (f) If an investigation reveals that discriminatory harassment has occurred, the BPSB's responsibility to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring;
- (g) The duty of the BPSB to respond to incidents of disability harassment as stated in (b)-(e) above even if the misconduct is also covered by an anti-bullying policy, and regardless of whether the student has complained, asked the school to take action, or identified the harassment as a form of discrimination; and
- (h) Notice of the existence and substance of OCR's July 25, 2000, Dear Colleague Letter (available at: <http://www2.ed.gov/ocr/docs/disabharassltr.html>) and OCR's October 26, 2010, Dear Colleague Letter (available at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>) addressing the responsibilities of district personnel related to disability-based harassment and harassment more generally (providing printed copies of said Letters to all trainees, including its <http://> citation).

1.2 By **September 10, 2016**, the BPSB will formally reaffirm in writing to students, staff, and parents at SPES its obligation to address incidents of harassing conduct based on disability that are sufficiently severe, pervasive or persistent so as to create a hostile environment consistent with its harassment policy, and the regulatory requirements of Section 504 and Title II. The statement will include the appropriate contact information for the staff member(s) designated as the official(s) to whom students and parents may report allegations of harassment and will warn that students found to have engaged in acts of harassment or other acts that create a hostile environment based on disability will be promptly disciplined in accordance with the BPSB's Student Code of Conduct.

1.3 By **October 30, 2016**, the BPSB will provide training to all XXXX students and instructional staff addressing harassment, including but not limited to, disability-based harassment, in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on disability for students enrolled in the

BPSB. This training may be provided either as an independent assembly, class presentation, or as part of the School's current curriculum/enrichment programs or lessons (e.g., Student Orientation) The training will include:

- (a) A reminder of the BPSB's commitment to having a school environment free from all harassment and an explanation regarding what students should do if they believe they or other students are being harassed;
- (b) A review of the BPSB's harassment policies and procedures, including an explanation of what disability-based harassment is, as well as disciplinary sanctions related to findings of violations of its harassment policies and the policy prohibiting retaliation;
- (c) The name and contact information of a BPSB employee, such as a counselor, who the students may contact if they wish to confidentially discuss any concerns they have; and
- (d) Distribution of written materials during the program that contain the information discussed.

1.4 By **November 18, 2016**, the BPSB will provide training regarding its obligation under Section 504 and Title II to provide a FAPE to all qualified students with disabilities residing within its jurisdiction, as well as its obligation to refrain from retaliating against any person for the exercise of any right protected by Section 504 or Title II. The training should be provided to all relevant personnel, including, but not limited to, District administrators, school administrators, faculty, and counselors. The training will be conducted by an individual or individuals knowledgeable about the laws and issues pertaining to disability discrimination, the evaluation of students who are or are believed to be disabled, disability-based harassments, and retaliation. The training shall address, at a minimum:

- (a) The identification and evaluation of all students, who because of disability, need or are believed to need special education or related aids and services;
- (b) The BPSB's policies and procedures for carrying out its responsibilities under Section 504 and title II to provide a free and appropriate public education (FAPE) to each qualified disabled person who is within the BPSB's jurisdiction, regardless of the nature or severity of the person's disability;
- (c) The BPSB's policies and procedures for carrying out its responsibilities to evaluate and re-evaluate students pursuant to Section 504, at 34 C.F.R. § 104.35;
- (d) The BPSB's policies and procedures for carrying out its obligation to provide procedural safeguards pursuant to Section 504, at 34 C.F.R. § 104.36;
- (e) The BPSB's obligation to refrain from retaliating against any person because that person, or anyone else, exercised any right or privilege pursuant to Section 504 or Title II; and
- (f) The Section 504 and Title II prohibition of disability-based harassment, the responsibility of staff to report incidents of possible harassment and the procedures for doing so, and instruction on how to recognize, prevent and respond appropriately to such harassment.

REPORTING REQUIREMENTS:

- 1.5 By **October 10, 2016**, the BPSB will provide documentation to OCR evidencing that the training required by Action Item 1.1 has been completed, including the identity of the individual(s) conducting the training and the individual’s qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheet(s) or other documentation showing who attended the training.
- 1.6 By **September 25, 2016**, the BPSB will submit a written report to OCR documenting how and when the notifications described in Action Item 1.2 were issued. The BPSB will also submit copies of the notifications to OCR.
- 1.7 By **November 10, 2016**, the BPSB will provide documentation to OCR evidencing that the orientation required by Action Item 1.3 has been completed, including the identity of the individual(s) presenting the orientation and the individual’s qualifications, along with a copy of the materials or a summary of the material covered in such orientation and sign-in sheet(s) or other documentation showing who attended the orientation.
- 1.8 By **November 25, 2016**, the BPSB will provide documentation to OCR evidencing that the training required by Action Item 1.4 has been completed, including the identity of the individual(s) conducting the training and the individual’s qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheets or other documentation showing who attended the training.

ACTION ITEM 2: Policies/Procedures

- 2.1 The BPSB shall review and if necessary revise its policies and procedures, concerning disability-based harassment, as contained in the Bossier Parish School System Student Handbook, on the BPSB website, in the Policy and Procedures Manual, and in any other relevant policy or procedures documents to indicate Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibit discrimination on the basis of disability, including disability-based harassment, and provide procedures for disability-based harassment complaints, including, but not limited to, reporting incidents of alleged disability-based harassment, investigation of complaints, interviewing of witnesses, and resolution of complaints.

REPORTING REQUIREMENTS:

- 2.2 By **October 30, 2016**, the BPSB will submit to OCR, for its review and approval, a copy of the any revised policies and procedures as required by Action Item 2.1. Within **30 days** of receipt of written notification from OCR of its approval of the revised policies and procedures as required by Action Item 2.1, the BPSB will provide documentation to OCR evidencing that the policies and procedures have been fully implemented and that informative communications have been provided to all BPSB staff notifying them of said policies and procedures. If the BPSB determines that revision of policies and procedures is not necessary, the BPSB will indicate this to OCR and provide the bases for this determination.

ACTION ITEM 3: Student Remedies

- 3.1** By **October 3 2016**, the BPSB will complete an investigation into the allegations of disability-based harassment reported by the Complainant. As part of the investigation, if the Complainant makes herself and her child available, the BPSB will meet with and interview the Student and the Complainant and provide them with the opportunity to identify alleged witnesses and any other information. The BPSB will interview any alleged witnesses they identify. If the BPSB determines that the allegations are substantiated, in whole or in part, the BPSB will take actions necessary to appropriately address the disability-based harassment. In addition, the BPSB will take steps to prevent any recurrence of the harassment and offer to remedy the effects of the disability-based harassment toward the Student.
- 3.2** By **October 17, 2016**, the BPSB will provide written notice to the Complainant of the outcome of its investigation and, if the BPSB substantiates the harassment as a result of the investigation, the BPSB will issue, by certified mail, a written offer to the Student to provide counseling/academic/therapy services for the assessment and/or treatment of any psychological harm or any of the lingering effects from the harassment. The BPSB's letter will inform the Student and the Complainant that they have ten (10) calendar days from the date of the letter to accept the offer by providing written notice of their acceptance.
- 3.3** By **September 15, 2016**, if the Student attends school within the District, the BPSB will formally notify the Complainant in writing of its willingness to reevaluate the Student, pursuant to Section 504, at 34 C.F.R. §§ 104.33 and 104.35. The written notice to the Complainant will state that the Complainant has the option to refuse the District's offer to reevaluate the Student. If the complainant accepts the District's offer to reevaluate the Student, the BPSB will schedule an evaluation to determine the Student's educational placement and eligibility for special education and related aids and services in accordance with the regulatory requirements of Section 504 and Title II. The BPSB will provide the complainant with a minimum of **30 calendar days** to respond to the District's offer to reevaluate the Student. If the Student no longer attends school within the District, the BPSB will formally notify the Complainant in writing that if the Student reenrolls in the District, the BPSB will take action to ensure that the Complainant is provided with written notice of the BPSB's willingness to reevaluate the Student, that the Complainant will be provided with 30 calendar days to respond to the offer to reevaluate, that the Complainant will be provided with an option to refuse the offer to reevaluate, and that if the Complainant accepts the offer for a revelation, the BPSB will complete an evaluation to determine educational placement and eligibility for special education and related aids by November 5, 2016,
- 3.4** If the Complainant accepts the District's offer to reevaluate the Student pursuant to Action Item 3.3 and the Student attends school within the District, the BPSB will complete the evaluation no later than **November 5, 2016**. As part of the evaluation process, the BPSB will convene a group of knowledgeable persons, including the Complainant, to determine the Student's educational placement and eligibility for special

education and/or related aids and services under Section 504 and Title II. If the BPSB determines, or has determined that the student has a disability, and is entitled to special education and/or related aids and services in accordance with Section 504 and Title II, it will immediately implement the Student’s individualized education program (IEP) or Section 504 Plan. If the BPSB determines, or has determined, that the Student is a qualified student with a disability, it will also determine whether the Student needs compensatory and/or remedial services as a result of the BPSB’s failure to evaluate her starting from approximately October 2014. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **November 30, 2016**. The BPSB will provide the complainant notice of the procedural safeguards including the right to challenge the group’s determinations through an impartial due process hearing.

REPORTING REQUIREMENTS:

- 3.5** By **November 10, 2016**, the BPSB will provide documentation to OCR indicating findings of the investigation required by Action Item 3.1 and a copy of the letter to the Complainant required by Action Item 3.2. If the BPSB determines that the Student no longer attends school within the District, the BPSB will also provide OCR with documentation or other supporting information demonstrating that the Student no longer attends school within the District.
- 3.6** By **November 10, 2016**, the BPSB will provide OCR with documentation demonstrating that it has timely completed Action Item 3.3.
- 3.7** Within 2 weeks of making its evaluation decisions with respect to the Student as indicated in Action Item 3.4, the BPSB will submit to OCR documents supporting the group’s decisions. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any special education and/or related aids and services to the Student, a description of and schedule for providing any compensatory and/or remedial services to the Student, and demonstrating that notice of procedural safeguards was provided to the Complainant.

Mitchell Downey, Superintendent designee
Bossier Parish School Board

Date