

RESOLUTION AGREEMENT
Heber Springs School District
OCR Complaint No. 06161085

The Heber Springs School District (HSSD or District), Heber Springs, Arkansas, agrees to resolve the allegations of discrimination on the basis of disability contained in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. The District 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. §§ 12131et seq., and its implementing regulation at 28 C.F.R. Part 35. This Agreement has been entered into voluntarily between the parties and does not constitute a finding or admission that the District is in noncompliance with Section 504 or Title II.

The HSSD 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 and Title II, at 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130, respectively.

The HSSD 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 HSSD understands that during the monitoring of this agreement, if necessary, OCR may visit the District, interview staff and contract staff, students, or others 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 and Title II, which were at issue in this case.

The HSSD 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 HSSD written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

By the following dates, the District agrees to take the following actions:

ACTION ITEM I. Individual Student Remedy

- A. By March 10, 2016, the District will offer XXXXXXXX (the Student) the opportunity to return to Heber Springs Middle School (the School) for the remainder of the 2015-2016 school year via written notice to XXXXXXXX (the

Complainant). Contingent upon the Student's acceptance of the offer¹ and after providing proper written notice to the complainant, the District will convene a Section 504 Plan team meeting (by a group of knowledgeable persons), including the complainant, to evaluate the Student's individual educational needs and determine whether compensatory education and/or remedial services are appropriate as a result of any denial of educational benefit(s) that may have occurred during the Student's enrollment in the District from August 17, 2015, through October 28, 2015. The District will provide the complainant notice of the procedural safeguards, including the right to challenge the group's determination through a due process hearing.

- B. If the Section 504 planning team determines that compensatory and/or remedial services are needed for the Student, within ten (10) school days of its determination, the Section 504 planning team will develop a plan for providing timely compensatory and/or remedial services to begin within fifteen (15) school days of the date of the District's receipt of the Student's acceptance, or at a later date if agreed upon by the Complainant, and a completion date to be determined by the Section 504 planning team. The compensatory education services shall be delivered in a manner so as not to hinder the delivery of any services that may be required by the Student's current educational program, and have a completion date not to extend beyond the conclusion of the 2015-2016 school year.

Reporting Requirements:

1. Within ten (10) school days of the date this agreement is signed, the District will provide OCR with documentation that it has provided a written offer to the Student to return to the School, as described in Item I.A.
2. Within sixty (60) days of this agreement, or within five (5) days of the Section 504 Accommodation Plan (whichever is earlier), the District will provide OCR with documentation that it has convened the Section 504 team meeting, as described in Item I.A. 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 compensatory and/or remedial services (if any) to the Student, should he return to the School for the 2015-2016 school year. OCR will, prior to approving the decision of the District and its plan for providing the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

¹ It is understood by the District and OCR that "acceptance of the offer" shall include the act of enrolling the Student in the HSSD in accordance with the District's residency requirements for the 2015-2016 school year.

3. By May 1, or within ten (10) school days of completion of compensatory services, the District will provide documentation to OCR of the dates, times, and locations that any compensatory and/or remedial services were provided to the Student, and the name(s) of the service provider(s), as described in Item I.B.

ACTION ITEM II. Discipline of Students with Disabilities

A. Review and Revision of Policies and Procedures

1. By June 1, 2016, the District will review its policies and procedures governing the discipline of students with disabilities to ensure that they are consistent with and contain appropriate and current citations to the regulations implementing Section 504, Title II, and the Individuals with Disabilities Education Act (IDEA). Based on this analysis, the District will identify the need for revising its policies and procedures with regard to the following areas:
 - a. With respect to students with disabilities, reducing the use of the following:
 - i. referrals for discipline;
 - ii. in-school suspension;
 - iii. out-of-school suspension; and
 - iv. expulsion;
 - b. the use of alternative exclusionary forms of student discipline and behavioral interventions to minimize the loss of instructional time; and
 - c. implementation of effective interventions, preventative strategies, and early identification of struggling students.

B. Training-Professional Development

1. By June 1, 2016, the District will develop training materials for administrative staff and teachers at the School on the District's policies and procedures related to discipline of students with disabilities.
2. Within 30 calendar days of OCR's review and approval of the District's training materials, the District will finalize its training materials and conduct training for administrators and teachers at the School.

Reporting Requirements

1. By June 1, 2016, the District will submit to OCR for review any draft revised policies and procedures identified in Item II.A.1. Within 60 days of receiving OCR's approval, the District will take the necessary steps to finalize the draft

policies and procedures, and provide OCR with a copy or link to the board-approved policies and procedures.

2. By June 1, the District will provide OCR with the name, title and qualifications of the trainer/facilitator and a copy (or outline) of the proposed training materials for OCR's review and approval, as described in Item B.1. Within thirty (30) calendar days of receipt of the proposed training materials, OCR will review the information and proposed training materials and provide the District comments, and/or approve the same.
3. Within ten (10) school days of completing the training, the District will provide OCR with a report confirming the completion of training of all instructional and administrative staff involved in disciplining students at the School on the District's discipline policies and procedures, as described in Item B.2. The report shall include the date of each training session; sign-in sheets showing the names and titles of District/School personnel who participated in each training session; and a copy of the agenda and final training materials provided and/or disseminated at the training session(s).

Superintendent or Designee
Heber Springs School District

Date

Printed Name and Title