

RESOLUTION AGREEMENT

Duncanville Independent School District OCR Complaint No. 06161161

The Duncanville Independent School District (DISD or District) agrees to resolve the allegation of discrimination on the basis of disability contained in complaint number 06161161 filed with the U.S. Department of Education, Office for Civil Rights (OCR). 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

INDIVIDUAL STUDENT RELIEF

Action Item 1

By August 26, 2016, the DISD will provide proper written notice to the Complainants of its willingness to reevaluate the Student by a group of knowledgeable persons, with respect to the Student's identified impairments of Dyslexia and Dysgraphia, pursuant to Section 504, at 34 C.F.R. §§ 104.33 and 104.35. The written notice to the Complainants will state that the Complainants have the option to refuse the District's offer to evaluate the Student. If the Complainants accept the District's offer to evaluate the Student, the DISD will schedule an evaluation to determine the Student's educational placement and eligibility for special education and related aids and services, with respect to the Student's impairments of Dyslexia and Dysgraphia, in accordance with the regulatory requirements of Section 504 and Title II. The DISD will provide the Complainants with a minimum of 30 calendar days to respond to the District's offer to evaluate the Student.

Reporting Requirement

By September 6, 2016, the DISD will provide OCR with a copy of the written notification sent to the Complainants in accordance with Action Item 1.

Action Item 2

If the Complainants accept the District's offer to reevaluate the Student pursuant to Action Item 1, the DISD will complete the evaluation within 30 school days. As part of the evaluation process, the DISD will convene a group of knowledgeable persons, including the Complainants, 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 group of knowledgeable persons determines 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 determine the Student's needs on an individualized basis, considering the Student's known impairments, and immediately implement the Student's individualized education program (IEP) or Section 504 Plan. The DISD

will provide the Complainants notice of the procedural safeguards including the right to challenge the group’s determinations through an impartial due process hearing.

Reporting Requirements

- A. By October 7, 2016, the DISD will submit to OCR a narrative report and documentation evidencing whether the Complainants accepted the DISD’s offer to conduct a reevaluation and the scheduled date of the reevaluation and any subsequent, related IEP, Section 504, ARD, or placement meeting.
- B. If an IEP, Section 504, ARD, or placement meeting to determine the individual needs of the Student occurs, in accordance with Action Items 1 and 2, **within 2 weeks**, of the placement meeting, the DISD will submit to OCR all documents pertaining to the placement meeting and placement decision.

Action Item 3

By September 6, 2016, after providing proper written notice to the Student’s parent/guardian, a group of knowledgeable persons, including the parent(s)/guardian(s), will determine whether the Student needs compensatory and/or remedial services as a result of any failure to provide appropriate regular and/or special education or related services during the 2015-2016 school year. If so, **within 1 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 May 31, 2017. The DISD will provide the Complainants notice of the procedural safeguards including the right to challenge the group’s determinations through an impartial due process hearing.

Reporting Requirements

- a) **Within 2 weeks** of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the group’s decision. 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. OCR will, prior to approving the District’s decision and 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.
- b) **Within 2 weeks** of OCR’s approval of the District’s decision and plan for providing the proposed services the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

TRAINING AND PROFESSIONAL DEVELOPMENT

Action Item 4

By September 22, 2016, the DISD will provide training to all XXXXXXXX XXXXXXXXXXXX XXXXXX (XXX) Section 504/Title II coordinators, Special Education Administrators, faculty and staff regarding its obligations, pursuant to Section 504 and Title II, to provide a free appropriate education (FAPE) to all qualified students with disabilities residing within its jurisdiction. The training will be conducted by individual(s) knowledgeable about the laws and issues pertaining to disability discrimination, the evaluation and placement of students who are believed to be disabled, and the provision of FAPE to students pursuant to Section 504. The training shall address, at a minimum:

- i. The DISD's obligations to identify and evaluate all students within its jurisdiction who, because of disability or disabilities, need or are believed to need regular or special education or related aids and services;
- ii. The DISD's obligation for a group of knowledgeable persons to conduct evaluations and make determinations of students' needs on an individualized basis and based on known physical or mental impairments which substantially limit one or more major life activities, as defined by 34 CFR § 103(j)(2).
- iii. The DISD's obligation to provide students services that are identified in their Individualized Education Plans or Section 504 Plans, including services, interventions, aids, or accommodations indicated in Behavior Intervention programs; and
- iv. The DISD's internal policies and procedures for carrying out its responsibilities under Section 504 and Title II.

Reporting Requirements:

Within 10 calendar days of the completion of the training referenced in action Item 4, the DISD will provide OCR with documentation demonstrating that it has timely completed Action Item 4 above. Specifically, the DISD will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Action Item 4, the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the DISD 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 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 DISD and does not constitute an admission by the DISD that it is not in compliance with Section 504 or Title II or their implementing regulations.

06/27/2016

Date

Dr. Marc Smith, Superintendent
Duncanville ISD