



RESOLUTION AGREEMENT

Central Community School System
OCR Case Number: 06-18-1642

A. GENERAL TERMS & PRINCIPLES:

The U.S. Department of Education, Office for Civil Rights (OCR) and the Central Community School System (System) enter into this agreement (Agreement) to resolve the allegation in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the System. The System assures the OCR that it will take the following actions to comply 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. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

Prior to the completion of OCR's investigation, the System agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve the issues of this investigation, the System agrees to take the following actions.

B. ACTION ITEMS & REPORTING REQUIREMENTS:

TRAINING & PROFESSIONAL DEVELOPMENT:

Action Item 1

Within thirty (30) calendar days after the System receives written notification of OCR's approval of the training(s) described in this Action Item, the System will conduct training regarding its obligation under Section 504 and Title II to provide a free appropriate public education and Section 504's and Title II's prohibitions of disability discrimination and retaliation. The training(s) must be provided to all relevant personnel at Central Middle School (CMS)—including, but not limited to, principals, special education coordinators, Section 504/Title II coordinators, teachers, teacher's aides, and counselors—and any relevant System-level administrators who work with CMS. The training(s) will be conducted by an individual or individuals knowledgeable about laws and issues pertaining to disability discrimination and retaliation, including the issues below, and must address, at a minimum, the following:

- i. The System's obligation to timely identify and evaluate all students within its jurisdiction who, because of disability, need or are believed to need regular or special education or related aids and services;
- ii. The System's policies and procedures for carrying out its responsibilities to evaluate a student pursuant to Section 504;
- iii. The System's obligation to evaluate a student with a disability to determine if the student's misconduct was caused by or related to the disability (manifestation determination) prior to imposing discipline that constitutes a significant change in

- placement and, if the misconduct was caused by or related to the disability, reevaluate a student's need for regular or special education and related aids or services;
- iv. Instruction on when discipline rises to the level of a significant change in placement;
 - v. The System's obligation to fully implement any individualized education program or Section 504 plan that has been developed for a qualified student with a disability; and
 - vi. Instruction on what type of conduct constitutes retaliation under Section 504 and Title II.

Reporting Requirements: Action Item 1

- a. By **December 7, 2018**, the System will provide OCR, for OCR's review and approval, the proposed training materials to be used and distributed during the training(s) described in this Action Item, including all speaker's notes, handouts, and PowerPoints (or other presentations) and the name, title, contact information, and qualifications of the trainer(s).
- b. **Within thirty-five (35) calendar days after the System receives written notification of OCR's approval of the training(s) described in this Action Item**, the System will provide to OCR documentation demonstrating that relevant personnel have received that training, including the date(s) of the training(s); the names, titles, contact information, and qualifications of the trainer(s); a copy of all training materials used and distributed during the training(s); and a sign-in sheet with the names and titles of individuals who attended the training(s).

INDIVIDUAL REMEDIES:

Action Item 2:

By **November 9, 2018**, the System will develop and implement a documentation system (e.g., have teachers initial a log with date of implementation) to ensure that the related aids and services delineated in the Student's Section 504 plan or individual education program (IEP) are communicated to the Student's teachers and implemented as prescribed.

Reporting Requirement: Action Item 2:

By **March 1, 2019**, the System will submit for OCR's review a report evidencing that it developed and implemented the documentation system referenced in this Action Item. This report should include, at a minimum:

- a. A narrative explaining the documentation system and how it is kept;
- b. A list of the Student's teachers during the time period for which the System is providing documentation;

- c. The documentation kept in accordance with the documentation system demonstrating that the related aids and services delineated in the Student's 504 plan or IEP were communicated to his teachers and implemented as prescribed; and
- d. A copy of the Student's Section 504 plan(s) or IEP(s) for which the System tracked implementation via the documentation system.

Action Item 3

- a. By **November 9, 2018**, the System will review the Student's discipline records for the 2017-2018 school year to determine whether the exclusionary discipline (e.g., in-school suspension, out-of-school suspension, and time-out room) he received during that school year constituted a significant change in placement (i.e., a series of short-term exclusions totaling 10 or more school days that create a pattern of removal).
- b. By **November 9, 2018**, the System will convene a meeting of a group of knowledgeable persons, as defined by Section 504, in accordance with the evaluation process required at 34 C.F.R. § 104.35, to
 - i. Ascertain whether the exclusionary discipline that the Student received during the 2017-2018 school year was a result of the Student's behavior that, at that time, was a manifestation of the Student's identified disabilities, *if* the System concludes that the exclusionary discipline that the Student received during the 2017-2018 school year constituted a significant change in placement during the review that Action Item 3(a) requires; and
 - ii. Consider whether the Student needs compensatory and/or remedial services, such as tutoring or counseling, as a result of any failure on the part of the System to timely evaluate the Student pursuant to Section 504 and/or implement the Student's Section 504 plan and/or as a result of any missed instruction due to exclusionary discipline during the 2017-2018 school year. If the group determines that the Student needs compensatory and/or remedial services, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **May 22, 2019**.

The System will provide the Student's parent(s)/guardian(s) notice of the procedural safeguards, including the right to challenge the group's determinations through an impartial due process hearing, in accordance with 34 C.F.R. § 104.36.

- c. If the group of knowledgeable persons determines during the meeting that Action Item 3(b) requires that the Student received exclusionary discipline during the 2017-2018 school year as a result of behavior that was, at that time, a manifestation of his identified disabilities, by **November 16, 2018**, the System will expunge the Student's discipline record(s) of those infractions that the group determined to be a manifestation of his disabilities.

Reporting Requirements: Action Item 3

- a. By **November 16, 2018**, the System will provide documentation to OCR regarding its determination during the review that Action Item 3(a) requires, including an explanation of its decision and supporting documentation.
- b. By **November 16, 2018**, the System will submit to OCR documents regarding the meeting that Action Item 3(b) requires. The documentation submitted shall include:
 - i. A list of all participants in the meeting (including names, titles, role in the meeting, and whether or not the participant was a voting member of the group);
 - ii. Records of all information considered during the meeting;
 - iii. Minutes or notes from the meeting;
 - iv. An explanation of the decisions made during the meeting;
 - v. A description of and schedule for any compensatory and/or remedial services determined appropriate for the Student; and
 - vi. A copy of the written notification sent to the Student’s parent(s)/guardian(s) concerning the meeting and proof of transmission (e.g., certified mail and return receipt, etc.);
- c. If the group of knowledgeable persons determines during the meeting that Action Item 3(b) requires that compensatory and/or remedial services are necessary, by **May 29, 2019**, the System will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services were provided for the Student; a description of what was provided and how it was provided; and the names, titles, and contact information of the service providers; and
- d. If the group of knowledgeable persons determines during the meeting that Action Item 3(b) requires that the Student received exclusionary discipline during the 2017-2018 school year as a result of behavior that was, at that time, a manifestation of his identified disabilities, **November 30, 2018**, the System will provide documentation to OCR showing that it expunged the Student’s discipline record of those infractions that the group determined were a manifestation of his disabilities.

Action Item 4

By **November 9, 2018**, the System will expunge the Student’s discipline record(s) of the XXXX XXXX that he received on XXXX XXXX, XXXX, and the XXXX XXXX XXXX that he received as a result of XXXX XXXX XXXX XXXX XXXX.

Reporting Requirement: Action Item 4

By **November 16, 2018**, the System will provide documentation to OCR showing that it expunged the Student’s discipline record of the discipline described in this Action Item.

Action Item 5

If the System XXXX XXXX XXXX XXXX XXXX XXXX XXXX prior to the conclusion of OCR’s monitoring of this Agreement, **within five (5) calendar days after the System imposes the XXXX**, the System will inform OCR of the XXXX and provide OCR with a narrative explaining the rationale for the XXXX and any supporting documentation.

Reporting Requirement: Action Item 5

Within five (5) calendar days after XXXX XXXX XXXX XXXX XXXX XXXX XXXX, the System will inform OCR of the XXXX and provide OCR with a narrative explaining the rationale for the XXXX and any supporting documentation.

C. EXECUTION:

The System understands that, by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the System understands that, during the monitoring of this Agreement, if necessary, OCR may visit the System, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the System has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.21, and Title II implementing regulation at 28 C.F.R. § 35.149. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

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

This Agreement will become effective immediately upon the signature of the System’s representative below.

Superintendent or Designee’s Name/Title

Superintendent or Designee’s Signature

Date