

RESOLUTION AGREEMENT

Rapid City Area Schools 51-4
OCR Docket Number 07161898

The U.S. Department of Education, Office for Civil Rights (OCR), and the Rapid City Area Schools 51-4 (District) enter into this Resolution Agreement (Agreement) to resolve the systemic allegations of the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws, 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 District asked to resolve the systemic allegations of this complaint pursuant to § 302 of OCR's *Case Processing Manual*.¹ In order to resolve these allegations, the District agrees to take the following actions.

A. IDENTIFICATION AND EVALUATION OF STUDENTS

The District will review, and revise as necessary, its policies and procedures to ensure that:

- 1) it immediately discontinues any practice or policy of imposing a cap on the number of District students who can be identified and evaluated for suspected learning disabilities to ensure all District students are assessed and served on the basis of their individualized needs;
- 2) students enrolled at each District school who are suspected of having a learning disability, including dyslexia or dysgraphia, under Section 504 and Title II are appropriately and timely identified, referred, evaluated, placed, and served based on their individualized educational needs;
- 3) while utilizing Response to Intervention (RTI) services or any other Multi-tiered System of Supports (MTSS), the District does not delay or deny identification and evaluation of District students suspected of having a learning disability;
- 4) identification and evaluation procedures are conducted consistent with the procedural requirements of Section 504 and Title II, including 34 C.F.R. §§104.31-104.36, 28 C.F.R. § 35.103(a), and 28 C.F.R. § 35.130(b)(1)(ii) and (iii); and
- 5) information obtained during the identification, referral, and initial evaluation processes will be documented and included in student records, including the initial referral request and decision, all notes from District staff meetings to discuss whether to test or evaluate a

¹ The *Case Processing Manual* is available online at <http://www2.ed.e:ov/about/offices/list/ocr/docs/ocrcpm.pdf>.

student, and all the information considered in making the referral and evaluation decisions.

The District's review and revision of its policies and procedures will also include a review of the process by which teachers, parents, or others, refer students suspected of having a learning disability for identification and evaluation, including the process for conducting District staff meetings to determine whether to test or evaluate students, and a review of the RTI process and timeframes at District schools.

REPORTING REQUIREMENT: By **December 30, 2021**, the District will provide to OCR, a copy of the Elementary (K-5) revised policies and procedures developed in accordance with Section A of this Agreement and documentation to substantiate that it has adopted and disseminated the revised policies and procedures. By **May 31, 2022** the District will provide to OCR, a copy of the Elementary (K-5) Middle School (6-8) revised policies and procedures developed in accordance with Section A of this Agreement and documentation to substantiate that it has adopted and disseminated the revised policies and procedures. By **November 1, 2022** the District will provide to OCR, a copy of the High School (9-12) revised policies and procedures developed in accordance with Section A of this Agreement and documentation to substantiate that it has adopted and disseminated the revised policies and procedures.

B. TRAINING

The District will provide training on the revisions made pursuant to Section A of this Agreement to District administrators and teaching staff including, but not limited to, teachers, special education teachers, paraprofessionals, and the designated Section 504/Title II compliance coordinator(s) and investigator(s). Such training will incorporate an evaluation component so the District can assess the efficacy of its training efforts and determine whether additional training is required.

REPORTING REQUIREMENT: By **December 30, 2021**, the District will provide to OCR documentation showing it has completed the training required in Section B of this Agreement for Elementary (K-5) staff. The documentation must include:

- a. the topics addressed at the training (the District may provide OCR an outline of the training and copy of the materials disseminated at the training);
- b. the name(s), title(s), and credentials of the individual(s) who conducted the training;
- c. the name, title, and work location of each employee who attended the training; and
- d. evaluation materials, including the District's assessment of efficacy and additional training needs, if any.

REPORTING REQUIREMENT: By **November 1, 2022**, the District will provide to OCR documentation showing it has completed the training required in Section B of this Agreement for Middle School (6-8) and High School (9-12) staff. The documentation must include:

- a. the topics addressed at the training (the District may provide OCR an outline of the training and copy of the materials disseminated at the training);
- b. the name(s), title(s), and credentials of the individual(s) who conducted the training;
- c. the name, title, and work location of each employee who attended the training; and
- d. evaluation materials, including the District's assessment of efficacy and additional training needs, if any.

C. REMEDIAL MEASURES

The District will conduct a review of its student educational records to identify students who attended the District since August 2015, are still enrolled in the District at present, and were suspected of having a disability but may have been denied or delayed in receiving an evaluation for special education because of a 5% limitation on students for RTI Tier II services in the areas of literacy and math, or because of a cap on the number of students who could be placed in each RTI group, or a cap on the number of students receiving RTI Tier II services. The review shall begin with current High School (9-12) students in order to ensure their review is completed before they graduate.

- 1) For each such student, the District will conduct a review, make a determination, and create a report that includes the following:
 - a. the date on which the referral was received by the District;
 - b. the individual(s) who made the referral (if available);
 - c. identification of when and how the student's parent or guardian received notice of procedural safeguards, or whether there is no record of such notice;
 - d. documentation of the District's decision to not evaluate the student, or a statement that there is no such documentation;
 - e. the date on which an evaluation of the student commenced in a following school year, or a statement that the student never was evaluated; and
 - f. if the student was evaluated in a following school year, whether the student was identified as needing special education or related aids and services, and when such special education or related aids and services first were provided.

- 2) For each student whose educational records were reviewed as required by Section C of this Agreement, the District will determine whether any failure to evaluate or delay in evaluation or provision of special education or related aids and services requires the District to provide compensatory services. The District will document its determination and will provide any such compensatory services that are needed, commencing as soon as possible and completing such services in as short a time as is reasonable.

REPORTING REQUIREMENT:

- Between **January 30,2022** through **January 30, 2023**, the District will provide OCR a report for each graduating class identifying students determined to need compensatory services, along with a description and timeline of when the compensatory services will be provided, as required by Section C of the Agreement.
- The District will start with the graduating class of 2022 and work backwards to the graduating class of 2027 as this class was in Kindergarten during the last year of the 5% rule that the district had in use.
- The documentation will be located in XXXX XXXX Live Binder Account, which can be accessed at any time to see updates.
 - o XXXX XXXX
 - o Key – XXXX XXXX

GENERAL PROVISIONS

The District 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 and obligations of this Agreement. Upon the District's satisfaction of the terms and obligations of this Agreement, OCR will close this case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statutes and regulations. Before initiating such proceedings, OCR will give the District 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 District's authorized representative below.

/s/

XXXX XXXX Superintendent

November 23, 2021
Date