

Resolution Agreement
Frontier Schools System
Docket # 07171043

The Frontier Schools System (School), Kansas City, Missouri, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve this complaint that was filed under Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 34; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 34 C.F.R. Part 28. The Agreement, when fully implemented, resolves the complaint allegations that the School discriminated against the Student on the basis of disability.

Before OCR completed its investigation, the School agreed to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. OCR has not made any conclusions of law or issued a final determination with respect to this complaint. While the School agrees to take the following actions, nothing contained in this Agreement shall be construed to constitute an admission on the part of the School to any of the allegations in the complaint.

I. Individual Remedies

- A. The School will conduct an evaluation of the Student, making eligibility and placement determinations in accordance with the procedural requirements of Section 504 at 34 C.F.R. §§ 104.3(j) and (l), 104.33, 104.34, and 104.35.¹ Based on the evaluation, the Student's multidisciplinary team will determine whether the Student has an impairment(s) which substantially limits one or more of his major life activities pursuant to Section 504, and if so, the multidisciplinary team will determine an appropriate educational placement for the Student, and if appropriate, draft and implement an Individualized Education Program (IEP) or 504 plan setting forth the Student's educational placement and the services he is to receive. The evaluation will include a manifestation determination in accordance with item I.B. below.

REPORTING REQUIREMENT: By April 17, 2017, the School will provide OCR for review and approval² a copy of the complete evaluation report of the Student, including all assessments (excluding assessment protocols), information and records considered in the evaluation; notes from the multi-disciplinary team meeting(s); the School's eligibility determinations for the Student; all IEPs and/or 504 plans developed for the Student; and notices, correspondence and other records made part of the Student's Section 504 or special education file in the School.

¹ The District notified OCR that the evaluation to determine eligibility for special education services will be conducted in accordance with the Individuals with Disabilities Education Act (IDEA) as well as Section 504.

² OCR's review of the Student's evaluation will determine whether the evaluation complies with the procedural requirements of Section 504 in 34 C.F.R. §§ 104.3(j) and (l), 104.33, 104.34, 104.35, and 104.36, and not the regulatory requirements of the IDEA.

- B. As part of the evaluation conducted pursuant item I. A. above, the Student's multidisciplinary team will determine whether the Student's XXXXX XXXXX, XXXXX through XXXXX XXXXX, XXXXX, out-of-school suspension was for conduct that was a manifestation of his disability. In so determining, the School will consider records and information that a competent professional would require, such as psychological evaluation data related to behavior, that is recent enough to afford an understanding of the Student's current behavior. If the team determines the Student's misconduct was caused by the Student's disabling condition, the team will determine the appropriate placement for the Student.

REPORTING REQUIREMENT: By April 17, 2017, the School will provide OCR for review and approval a copy of the team's manifestation determination for the Student including a copy of all records and information considered in making the decision and an explanation of the reason(s) for the determination.

- C. The Student's multidisciplinary team will determine the amount and type of compensatory education services to which the Student is entitled for the 2016-17 school year.³ When completing this action, the School will consider whether: 1) the School has provided the Student a free, appropriate public education since the Student enrolled at the beginning of the 2016-17 school year; and 2) the School erroneously imposed a disciplinary suspension from XXXXX XXXXX, XXXXX through XXXXX XXXXX, XXXXX, on the Student for conduct related to his disability. Compensatory education services may include, but are not limited to counseling, educational instruction, tutoring, completion or resubmission of assignments, retaking tests, and recalculation of grades. The plan to provide the Student with compensatory education services will be developed, included in the Student's IEP or 504 plan, and implemented after review and approval by OCR. The schedule/plan will identify the compensatory education services to be provided, the manner in which they will be provided, who will provide them, and a schedule for providing them.

REPORTING REQUIREMENTS: By April 17, 2017, the School will provide OCR with a copy of the multidisciplinary team's plan to provide the Student with compensatory education services and a copy of all records and information considered in making the decision. The plan or accompanying documentation will explain the basis for the team's decision regarding the type and amount of compensatory education services and provide OCR. The schedule/plan for providing the Student compensatory education services will be submitted to OCR for review and approval prior to implementation.

REPORTING REQUIREMENT: Within 15 days after the last day of each semester of the 2016-17 and 2017-18 school year, the School will provide OCR documentation that it has implemented the Student's IEP or 504 plan, including, if applicable, the provision of

³ OCR notes the School has already undertaken steps to provide additional tutoring and educational services to the Student related to math and language arts classes. To the extent additional services are necessary, appropriate activities and services will be explored by the multidisciplinary team. The team will document any and all such compensatory educational services, including those already being provided to the Student.

compensatory education services to the Student. If the Student withdraws from the School, the School will notify OCR in writing within 15 days of such withdrawal.

- D. At the conclusion of the Student's evaluation, the School will provide the Complainant with a copy of the School's procedural safeguards that meet the requirements of 34 C.F.R. § 104.36.

REPORTING REQUIREMENT: By April 17, 2017, the School will provide OCR with documentation that it provided the Complainant written notice of its procedural safeguards.

- E. Upon the completion of the Student's compensatory education services, the School will modify the Student's transcript to show only the grades recalculated as part of the Student's compensatory education services in each of the Student's classes for the first semester of the 2016-17 school year.

REPORTING REQUIREMENT: By May 1, 2017, the School will provide OCR a copy of the Student's transcript showing only the recalculated grades in each class of the Student's classes for the first semester of the 2016-17 school year.

- F. The School will remove the Student's XXXXX XXXXX, XXXXX dismissal from the Student's official discipline record at the School and from any other record the School might send to another school district if the Student were to enroll in another school district.

REPORTING REQUIREMENT: By May 1, 2017, the School will provide OCR a copy of the Student's official discipline record and any other records from which the Student's XXXXX XXXXX, XXXXX dismissal was removed.

II. Policy and Procedural Remedies

- A. The School will provide OCR a copy of its complete Section 504 policies and procedures, including its procedural safeguards, for OCR review. The School agrees that it will revise its Section 504 policies and procedures as necessary to ensure the policies and procedures comply with the requirements of the regulations implementing Section 504 at 34 C.F.R. Part 104.

REPORTING REQUIREMENT: By July 1, 2017, the School will provide OCR a copy of its complete Section 504 policies and procedures, including its procedural safeguards.

REPORTING REQUIREMENT: Within 45 days of receiving feedback from OCR's review of the Section 504 policies and procedures, the School will provide OCR a copy of any revisions made to its Section 504 policies and procedures pursuant for OCR review and approval.

III. Training

After OCR has approved the School's revised Section 504 policies and procedures, the School will provide training on the requirements of Section 504 and the School's revised Section 504 policies and procedures to the School's Section 504 coordinator, all building administrators, school nurses, school counselors, and all instructional staff. OCR is available to provide technical assistance to the School. Prior to conducting the training, the School will submit to OCR a copy of all materials to be used in the training, including handouts and Power Point presentations, for review and approval.⁴

REPORTING REQUIREMENT: By September 1, 2017, the School will provide OCR documentation of the training including the date(s) and time(s) of the training; the name(s) and title(s) of the trainer(s); a copy of any printed materials used during the training (handouts or PowerPoint presentations); and a sign in sheet showing the training participants by name and position.

The School understands that OCR will not close the monitoring of this Agreement until OCR determines that the School 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. §§ 104.33 – 104.36 and 28 C.F.R. § 35.130, which were at issue in this case.

The School 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 and that all actions taken to comply with the requirements of the Agreement are subject to OCR's review and approval. Further, the School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School 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. §§ 104.33 – 104.36 and 28 C.F.R. § 35.130, which were at issue in this case.

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

Ugur Demircan
Superintendent
Frontier Schools System

Date

⁴ If the School chooses to have OCR provide training on the requirements of Section 504, the School will not be required to submit training materials for the training provided by OCR. Materials used in training provided by entities other than OCR must still be submitted to OCR for review and approval prior to conducting the training.