

**Resolution Agreement  
Waverly School District  
Case Number 07-17-1261**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Waverly School District (District), Waverly, South Dakota, enter into this Resolution Agreement (Agreement) to resolve the above-referenced complaint. The 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 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R) Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, 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.

The District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's *Case Processing Manual*.<sup>1</sup> Accordingly, the District voluntarily agrees to take the actions set forth below.

1. The District will develop internal memorandum or similar guidance (open enrollment guidance) for relevant Board of Education members, administrators, and staff regarding the processing of open enrollment applications. The guidance will confirm the District's understanding of the state open enrollment requirements and will ensure that open enrollment transfer requests will not be denied based on the students' disability status.

**REPORTING REQUIREMENT:** By *June 15, 2018*, the District will submit a draft of the open enrollment guidance for OCR review and approval. Within 30 days of receiving OCR's written approval of the open enrollment guidance, the District will distribute the open enrollment guidance to all Board of Education members, administrators, and staff who are involved with the open enrollment process.

2. The District will develop a procedure to maintain documentation of all open enrollment applications received by the District, which includes, at a minimum, the following information: (a) the number of open enrollment applications received; (b) the number of applications that were approved; (c) the number of applications that were not approved or were rescinded following its prior approval; (d) the number of applications in which the student was identified as eligible for special education or related services; and (e) the reason(s) the District did not approve an application, if applicable. For each application from a student with a disability that was not approved or was rescinded following prior approval by the District, the District will maintain documentation regarding how that decision was made, including the information that was considered and the person(s) involved in that decision.

**REPORTING REQUIREMENT:** By *July 1, 2018*, the District will submit to OCR documentation demonstrating its compliance with Item 2.

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<sup>1</sup> OCR's *Case Processing Manual* may be accessed at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.pdf>.

**REPORTING REQUIREMENT:** Within 60 days of the completion of the 2018-19 school year, the District will submit copies of all open enrollment applications received during the 2018-19 school year and all supporting documentation regarding the District's decision to accept or deny the open enrollment application.

3. The District will provide training to administrators, special education teachers, and the Section 504 Coordinator on the identification, evaluation, and placement of students with disabilities. The training will address the District's policies and procedures regarding the evaluation of a student who the District has reason to believe may be a student with a disability<sup>2</sup> and may include the District's revised and procedure regarding open enrollment applications received by the District from prospective students who indicate that they have an IEP.

**REPORTING REQUIREMENT:** By *August 1, 2019*, the District will provide OCR with documentation that it has provided the training required in Item 3, including the dates of the training, the names and titles of the trainer(s), the topics addressed at the training, a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the staff who attended the training. If OCR provides this training, the District need only submit a list of the names and titles of the attendees. The District need not provide OCR with documentation regarding subsequent trainings unless OCR specifically requests this information.

4. The District will issue a letter to the Complainant informing her that the District is committed to ensuring that students are not excluded from participation in or denied the benefits of the District's open enrollment policy based on disability status. The letter will also invite the Complainant to re-apply for open enrollment of the Student for any future school year, but that the opportunity to re-apply does not guarantee or ensure that open enrollment will be approved, but will be made only based upon considerations, which are permissible under relevant state and federal laws.

**REPORTING REQUIREMENT:** By *July 1, 2018*, the District will submit a draft of the letter to OCR for review and approval. OCR will review the draft letter submitted by the District and notify the District if revisions are required. Within 20 days of receiving OCR's written approval of the letter, the District will submit to OCR documentation verifying it has sent the letter to the Complainant.

The District 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 which were at issue in this case.

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

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<sup>2</sup> OCR is available to provide this training upon request.

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. Upon completion of the obligations under this Agreement, OCR shall close 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.

The Agreement will become effective immediately upon the signature of the District's representative below.

/s/

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Superintendent  
Waverly School District

5/7/2018

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Date