

RESOLUTION AGREEMENT
Rapid City Area School District #51-4
OCR Case No. 07211110

The U.S. Department of Education, Office for Civil Rights (OCR) and Rapid City Area School District #51-4 (District), in Rapid City, South Dakota, voluntarily enter into this Resolution Agreement (Agreement) to resolve the allegations in the above-referenced complaint, pursuant to Section 302 of OCR's *Case Processing Manual*.¹

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, 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, 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

The District agrees to take the following actions:

Action Item: By September 28, 2021, after providing proper written notice to the Complainant, the District will seek parental consent to convene a group of persons (multi-disciplinary team) pursuant to Section 504 to meet and determine whether the Complainant's daughter is a qualified individual with a disability and, if so, whether the Complainant's daughter (Student) requires regular or special education and related services.

If the District receives consent from the Complainant, then the District will hold a meeting to determine placement. During the meeting, the District will also consider whether the Student requires compensatory and/or remedial services. If the District determines the Student requires compensatory and/or remedial services, within two weeks of that determination, the multi-disciplinary team will develop a plan for providing timely compensatory and/or remedial services during the 2020-2021 school year. The District will also provide the Complainant notice of the procedural safeguards, including the right to challenge the multi-disciplinary team's determination through an impartial due process hearing.

Reporting Requirements:

- a. Within ten (10) calendar days of providing the notice of the date of the Section 504 evaluation to the Complainant, the District will provide OCR with a copy of the notice sent to the Complainant. The District will provide OCR with evidence of the following: (1) the District sent a letter, via certified mail and email, requesting consent to evaluate the Student for regular or special education and related services and compensatory/remedial services pursuant to Section 504;² and (2) whether the District received consent to evaluate the Student for regular or special education and related aids and services and compensatory/remedial services pursuant to Section 504. If the District

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

² Pursuant to Section 504, at C.F.R. § 104.33 (b)(2), a recipient may satisfy its obligation to provide a FAPE to students with disabilities through the implementation of an Individualized Educational Program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA).

does not receive consent, then the reporting requirement is satisfied and subsections (b) and (c) are not required.

- b.** Within sixty (60) calendar days of the District's convening the multi-disciplinary team, the District will submit to OCR documents supporting the team's decisions. The documentations submitted will include the names of all participants, an explanation for decisions made, the information considered, a copy of the Section 504 Plan/Individualized Education Program (IEP) developed for the Student (if any), a description and schedule of any compensatory and/or remedial services to be provided to the Student, and documentation that the District notified the Complainant of all determinations, and met all procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35 and 104.36, in making these determinations.
- c.** If the District determines that the Student requires compensatory/remedial services, the District will also provide to OCR, documentation that the Student received all compensatory and/or remedial services identified. The documentation shall include a description of the services provided, the dates and times the services were provided, and the name(s) of the providers.

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 the 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 it has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation, at 34 C.F.R. Part 104. Upon the completion of the commitments made under this Agreement, OCR will 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.C. §§ 100.09, 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 will become effective immediately upon the signature of the Rapid City Area School District #51-4's representative below.

Superintendent
Rapid City Area School District #51-4

Date