

Resolution Agreement

Albany County School District #1 Case Number 08-13-1285

In order to resolve the allegations in Case Number 08-13-1285, filed against Albany County School District #1 (the District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement the following Resolution Agreement (Agreement). The District denies that there was any wrong-doing or any noncompliance with Section 504 and Title II, and OCR has not made a finding of any wrong-doing or violation of the same. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing nor shall it be construed as such. The Student, subject of the complaint, is XXXXX.

The complaint was opened for investigation pursuant to allegations of the District's noncompliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794 (Section 504) 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, 42 U.S.C. Sections 12131-65, 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 from the Department and by public entities respectively. During the course of OCR's investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations.

RESOLUTION ACTION

The District agrees to take the following actions:

1. If XXXXX, the District will convene a Section 504 or Individualized Education Program (IEP) meeting to take into account the individualized needs of the Student and to determine what services are appropriate to ensure that the Student is not denied the benefit of XXXX, consistent with 34 C.F.R. §§ 104.33-36. The parent will be invited to participate and to contribute relevant information. The meeting team shall decide, based on the variety of information available about the Student, (a) whether the Student has XXXXX that substantially limits XXXXX a major life activity, including but not limited to XXXXX; and (b) if so, what regular or special education and related aids and services are offered to ensure that the Student will receive an appropriate education. All decisions will be made by the group of persons meeting as a team. Disagreement with the outcome from any member of the team may be included in the record of the meeting; the District understands that any such disagreement may be the subject of due process, which is outside the scope of this Agreement.

REPORTING REQUIREMENT: Within 45 days¹ from XXXXX, the District will submit to OCR documentation sufficient to demonstrate satisfaction of this term. If XXXX, the District will inform OCR no later than October 15, 2014, of XXXX.

2. The District will draft separate written notices to be issued by the Superintendent, Assistant Superintendent or the Individualized Director of Special Services to all instructional staff addressing:
 - a. The requirement under Section 504 to provide a free appropriate public education to every student with a disability regardless of the nature or severity of the disability. This requirement encompasses, among others, the responsibility to consistently implement every provision of each student's Section 504 Plan or IEP. Any provision of a Section 504 Plan or IEP that addresses XXXXX encompasses XXXXX.
 - b. The District does not tolerate disability discrimination prohibited under Section 504 and Title II, including retaliation, intimidation, or coercion directed against individuals who exercise their rights under Section 504 or Title II; that such conduct is prohibited by law; and that effective action, including disciplinary action where appropriate, will be taken.

REPORTING REQUIREMENT: Within 15 days from the date of this Agreement, the District will submit to OCR copies of the draft notices required under this term.

3. The District will consider and respond to any feedback from OCR with respect to the draft notices required at Term 2. After obtaining OCR's approval of the drafts, the Superintendent, Assistant Superintendent or the Individualized Instructional Programs will issue the notices separately to each instructional staff member.

REPORTING REQUIREMENT: Within 15 days from the date of OCR's approval of each draft notice, the District will provide attestation that the notice was issued as required under this term.

4. The Superintendent or the Assistant Superintendent for Human Resources and Quality Learning will issue a letter to the Complainant stating that no further action will be taken by the District stemming from XXXX from the start of school year 2013-2014 through the date of this Agreement, and XXXX is closed.

REPORTING REQUIREMENT: Within 15 days from the date of this Agreement, the District will submit to OCR documentation sufficient to demonstrate satisfaction of this term, including a copy of the letter to the Complainant.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that 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.

¹ All timeframes are expressed as calendar days.

The District understands that by signing this Agreement, it agrees to provide documentation 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 the Agreement, if necessary, OCR may visit the District, interview District employees, and request such additional reports or data as 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.

The District understands that when OCR determines that the District has fulfilled all of the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, OCR will close Case Number 08-13-1285 and will send a letter to the District stating that Case Number 08-13-1285 is closed.

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. Sections 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

The person signing for the District represents that he is authorized to bind the District to this Agreement. This Agreement becomes effective the date of the signature below.

For Albany County School District #1:

/s/

Dr. Brian Recht
Superintendent

4/11/14

Date