

**Resolution Agreement  
Central Consolidated School District  
OCR Case No. 08-15-1280**

In order to resolve the allegations in Case Number 08-15-1280, filed against Central Consolidated School District (District), the District agrees to implement this Resolution Agreement. This case was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation at 34. C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation at 28 C.F.R. Part 35.

During the course of OCR's evaluation of the complaint, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II<sup>1</sup>. Pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), 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. 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 District agrees to take the following actions:

**1. INDIVIDUAL REMEDIES**

**A. MEETING TO DETERMINE COMPENSATORY SERVICES:** By September 25, 2015, after providing proper written notice to the Student's parents, a group of knowledgeable persons, including District staff and the parent(s), will determine whether the Student needs compensatory services as a result of the District's failure to provide speech language services consistent with the Student's IEP during the 2014-2015 school year. If so, within seven (7) days of its determination, the group will develop a plan for providing timely compensatory services with a completion date not to extend beyond December 31, 2015. The District will provide the Student's parents notice of procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

**REPORTING REQUIREMENT:** Within twenty-one (21) days of the decision as to whether compensatory services are needed, the District will submit documents supporting the group's decision to OCR. The report shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory services to the Student. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33-104.36, in making this

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<sup>1</sup> Because Section 504 has specific requirements regarding free and appropriate public education (FAPE) and Title II provides for no lesser protection than that provided by Section 504, this Agreement refers to Section 504 in addressing FAPE requirements.

determination and notify the District when it has completed this review.<sup>2</sup>

- B. IMPLEMENTATION OF COMPENSATORY SERVICES:** After OCR has reviewed and accepted the District determination from Item 1(A), the District will take steps to implement the compensatory services, if any, agreed upon the team.

**REPORTING REQUIREMENTS:** Within thirty (30) days from the date of OCR's acceptance of the proposed compensatory services, if any, the District will provide documentation that it has provided or is in the process of providing the compensatory services. For compensatory services that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services are being provided as specified. If the Student is to receive compensatory services, the case will remain in monitoring until all compensatory services have been provided in full.

- C. INDEPENDENT EXPERT EVALUATION:** By September 4, 2015, the District will clearly communicate to the Student's parent(s), instructions on how to schedule and pay for the Student's approved Independent Expert Evaluation (IEE).

**REPORTING REQUIREMENT:** Within one week of providing the Student's parent(s) with instructions on how to complete the Student's IEE, the District will submit documents showing that instructions were communicated to the Student's parent(s).

## 2. DISTRICT WIDE REMEDIES

- A. MEETINGS TO DETERMINE COMPENSATORY SERVICES:** Within ninety (90) days of this Agreement, the District will hold an IEP or Section 504 team meeting for each District student on the deceased Speech Language Pathologist's caseload who had an IEP or Section 504 Plan that included the provision of speech language therapy for any duration of the 2014-2015 school year to determine whether compensatory services are owed for speech therapy services not rendered during that same time. The District will ensure that the team meeting is comprised of a group of persons knowledgeable about the students such that it can individually assess the amount of compensatory services, if any, that would be appropriate for the students and, if necessary, draft an action plan containing proposed compensatory services or remedial measures that will be offered or taken, the specific timelines for implementation, and the person(s) responsible for overseeing full and timely implementation. The District will also provide the students' parents with a

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<sup>2</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the group described proposes compensatory services or remedial actions *and* those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the District of its concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree

**REPORTING REQUIREMENTS:** Within thirty (30) days of this Agreement, the District will submit to OCR documentation that identifies students who may have been affected by the absence of a speech pathologist. This will include: (i) a list of District students on the deceased Speech Language Pathologist's caseload who qualified for speech language therapy for any duration of time during the 2014-2015 school year; (ii) how many minutes of speech language therapy the student was entitled to receive; (iii) the schedule for receiving services, according to any IEP or 504 Plans that were in place throughout the school year; (iv) how many minutes of speech language therapy the student actually received during the 2014-2015 school year; and (v) when the student received those minutes.

Within ninety (90) days of this Agreement, the District will submit documentation that shows full implementation of Item 2(A) to OCR. The documentation submitted shall include a copy of any meeting minutes, a copy of any IEPs or Section 504 Plans developed for the students, documentation of any input provided by the students' parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Item 2(A). If the District determines that no compensatory services were necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33-104.36, in making these determinations and notify the District when it has completed this review.

**B. IMPLEMENTATION OF COMPENSATORY SERVICES:** After OCR has reviewed and accepted the District determination from 2(A), the District will take steps to implement the compensatory services, if any, agreed upon by each IEP team.

**REPORTING REQUIREMENTS:** Within thirty (30) days from the date of OCR's acceptance of the proposed compensatory services, if any, the District will provide documentation that it has provided or is in the process of providing the compensatory services. For compensatory services that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services are being provided as specified. If the students are to receive compensatory services, the case will remain in monitoring until all compensatory services have been provided in full.

**C. ENSURING THE PROVISION OF FREE APPROPRIATE PUBLIC EDUCATION:** The District recognizes its obligation under the regulation implementing Section 504 at 34 C.F.R. § 104.33 to provide a free appropriate public

education (FAPE) to each qualified student with a disability in its jurisdiction. In addition, the District recognizes its obligations under Section 504 at 34 C.F.R. § 104.33 that it must fully implement Section 504 Plans for students with disabilities.

**REPORTING REQUIREMENTS:** By October 10, 2015, the District will provide documentation to OCR evidencing that it has sent a memorandum to all District administrators and student services support staff reminding them of their obligations under Section 504 and that they must fully implement Section 504 Plans for students with disabilities.

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 a minimum of sixty (60) calendar days to cure the alleged breach.

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 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65 and their implementing regulations at 34 C.F.R. § 104.35 and 28 C.F.R. §35.103(a), 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 are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65 and their implementing regulations, which were at issue in this case.

For Central Consolidated School District:

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Dr. Colleen Bowman  
Interim Superintendent  
Central Consolidated School District

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9/3/2015  
Date