

Resolution Agreement
Douglas County School District (North Star Academy)
OCR Docket # 08-16-1218

The Douglas County School District (District) voluntarily enters into this Resolution Agreement (Agreement) to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation at 28 C.F.R. Part 35, with respect to the allegation of disability discrimination raised in the above-referenced complaint. Specifically, the District has voluntarily agreed to resolve the allegation that it discriminated against Student A, a former xxxxx grade student at xxxxxxxx xxxxxxxxxx (School), based on her disability (xxxxxx) when it failed to provide her a free, appropriate, public education (FAPE) during the 2015-16 school year in that it: (1) did not implement her Individualized Education Plan (IEP) and Behavior Intervention Plan (BIP); and (2) did not evaluate her prior to placing her xx xxxxxxxxxxxx xxxxxxxxxxxx. By entering into this Agreement, the District does not admit any violation of Section 504 or Title II with regard to the allegation that it failed provide Student A with a FAPE during the 2015-16 school year.

Training

1. The District will provide training to all School teachers, administrators, and school aides, and any other School personnel charged with supervising District students, on the Section 504 regulation at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, and 104.35, which prohibit disability discrimination, require the District to provide FAPE, require, generally, the District to educate students with disabilities in the education environment, and which govern the evaluation and placement procedures. The training will include, but not be limited to, information about the Section 504 and Title II regulations at § 104.4(a) that prohibit school districts from: denying a qualified student with a disability the opportunity to participate in or benefit from an aid, benefit, or service; affording a qualified student with a disability an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others. In addition, the training shall include information about the Section 504 regulation at 34 C.F.R. §§ 104.33 and § 104.34, that require school districts to provide a free appropriate public education (Section 504 FAPE) to each qualified person with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the person's disability and to place a qualified person with a disability in the regular education environment unless it is demonstrated that the education of the person in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. Finally, the training will include information about the Section 504 regulation at 34 C.F.R. § 104.35, regarding evaluation and placement of students with disabilities. In particular, the training shall inform participants of the requirement to timely respond to requests for meetings or evaluations, to make individualized determinations about what is needed to

provide a FAPE (including but not limited to determinations about extracurricular activities), and to avoid making determinations based on generalized rules. In addition, the District shall evaluate the School staff's understanding of the training information and materials with a formal assessment.

REPORTING REQUIREMENTS: By September 30, 2016, the District will submit draft training materials developed for Agreement Term #1 (e.g., handouts, outlines, power point slides) to OCR for review and approval. The District will also identify the proposed trainer and describe the trainer's qualifications to deliver the required training. The District will respond to any feedback OCR provides regarding the training materials and the qualifications of the trainer until OCR approves them.

REPORTING REQUIREMENTS: Within 30 days, after OCR has approved the training materials and the trainer, the District will provide the training to School staff. Within ten calendar days of the provision of training to School staff, the District will provide OCR documentation of the completed training, including sign-in sheets with participants' names and positions, agendas, all materials distributed, a copy of the assessment instrument, and a narrative summary of the results of the evaluation.

Individual Remedies

2. After providing proper written notice to Student A's parents, the District will convene a group of knowledgeable persons to determine whether Student A was denied a FAPE during the 2015-16 school year as the result of any failure to conduct a timely and complete evaluation of Student A, develop an IEP that met Student A's individualized needs, or implement Student A's IEP. The meeting shall be conducted pursuant to the procedural requirements of the Section 504 regulation at 34 C.F.R. §§ 104.35-104.36. If the team determines that Student A should receive compensatory education or services, the District will provide the compensatory education and services in addition to the Student's regular instruction and services during the 2016-17 school year, and will provide, at a District location, the compensatory education and services to Student A regardless of whether Student A is enrolled in a District school.

REPORTING REQUIREMENT: By September 30, 2016, the District will report the results of the group's determination regarding the provision of any compensatory and/or remedial services for Student A. The District shall provide OCR with a copy of the notice provided to Student A's parents, documentation showing the participants in the meeting, and documentation that the District provided the procedural safeguards to Student A's parents. If the team determines that no compensatory education or services are necessary, the District will provide a written explanation for the determination, including a description of the information that the group considered, and all documentation supporting the determination. OCR will review the notice, written explanation, and supporting documentation to ensure that the group met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making its determination.

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If the District determines that compensatory education and services are necessary, the District will provide to OCR, within 30 days of the IEP meeting and in addition to the documentation described above, documentation demonstrating that it has scheduled the compensatory education and services. In addition, the District will provide to OCR within 30 days of the completion of the provision of any compensatory education and services, documentation demonstrating that it has provided all of the compensatory education and services.

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 the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, and 104.35, and Title II at 28 C.F.R. § 35.130(a), which were at issue in this case.

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 at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, and 104.35, and Title II at 28 C.F.R. § 35.130(a), which were at issue in 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.

For the District

Date