

RESOLUTION AGREEMENT

Jefferson County School District Case Numbers 08-16-1362 & 08-16-1439

In order to resolve the open allegations in Case Nos. 08-16-1362 and 08-16-1439, filed against Jefferson County School District (District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (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), 42 U.S.C. §§ 12131-65, and its implementing regulation at 28 C.F.R. part 35, the District agrees to take the actions outlined in this Resolution Agreement.

During the course of OCR's investigation, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. The Agreement requirements are aligned with the identified issues and consistent with Section 504's and Title II's regulatory requirements. The District's decision to enter into this agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

1. By November 15, 2016, the District will convene a Section 504 meeting and invite the Complainant to the meeting. The purpose of the meeting is to determine the amount and nature of compensatory services, if any, the District will provide, or other remedial measures the District will take, to remedy the Student's missed instruction time over the course of the 2015-2016 school year.

REPORTING REQUIREMENT: Within 15 days after the meeting, the District will provide OCR with a statement that it has complied with Term 1 of this Agreement. Additionally, the District will provide OCR with a copy of the meeting notes. If the Complainant declines the invitation to the meeting, the District shall provide a copy of the invitation to the meeting and any notes and records of communications with the Complainant showing the Complainant's declination.

Should the District determine that no compensatory services will be provided, the District will provide to OCR 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. §§ 104.34, 104.35 and 104.36, in making these determinations, and notify the District when it has completed this review.¹

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP or Section 504 team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the IEP or Section 504 team 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.

2. After OCR has reviewed and accepted the District's determination, the District will take steps to implement the compensatory services and remedial measures, if any, agreed upon by the Section 504 team.

REPORTING REQUIREMENT: Within 90 days from the date of OCR's acceptance of the proposed compensatory services and remedial measures, if any, the District will provide documentation that it has provided or is in the process of providing the compensatory services and remedial measures. For compensatory services and remedial measures that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for providing services, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified, and the District will provide an additional letter to OCR confirming all compensatory services and remedial measures have been provided in full.

3. If, by November 15, 2016, the Complainant provides to the District's Section 504 Coordinator a receipt (or other documentation of payment) for the XXX classes that Student took over the summer of 2016, the District will reimburse Complainant for the amount of those classes.

REPORTING REQUIREMENT: By November 22, 2016, the District will provide one of the following to OCR for OCR's review and approval: (1) if the Complainant provides documentation of payment to the District, the District will provide to OCR documentation that it reimbursed Complainant for the amount shown in her documentation; or (2) if the Complainant does not provide documentation of payment to the District, the District will provide to OCR a statement explaining that Complainant has not provided documentation.

4. The District will provide the following training to the District's 504 Coordinator, all XXX School, XXX, and XXX instruction administration, teaching staff, and service providers. The training shall address (1) the District's obligation to provide a FAPE to each student with a disability who is in the District's jurisdiction; (2) that "appropriate education" is defined as the provision of regular or special education and related aid and services designated to meet the individual's educational needs as adequately as the needs of non-disabled students; (3) the District's affirmative obligation to timely identify and evaluate students suspected of being an individual with a disability, including the consideration of doing so upon parent request; and (4) the District's affirmative obligation to reevaluate where there is sufficient information to indicate that the student may have a disabling condition that requires special education or related services, including consideration of whether a student's previously known disabling condition has changed in a manner that warrants a reevaluation of the student's placement.

REPORTING REQUIREMENT A: Within 90 days of this Agreement, the District will provide OCR its draft training materials; identify who will be providing the training, by name, title, and qualifications; and provide a list of personnel required to participate in the training, by name and title.

REPORTING REQUIREMENT B: Within 60 days of OCR’s approval, the District will provide documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

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 Section 504 and its implementing regulation at 34 C.F.R. part 104 and Title II and its implementing regulation at 28 C.F.R. part 35, 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 Section 504 and its implementing regulation at 34 C.F.R. part 104 and Title II and its implementing regulation at 28 C.F.R. part 35, 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 the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

Superintendent Dan McMinimee
For Jefferson County School District

October 18, 2016

Date