

**Resolution Agreement  
Goshen County School District  
Complaint Number 08-17-1069**

In order to resolve the open allegations in Case Number 08-17-1069, filed against Goshen County School District (“the District”) with the Office for Civil Rights (OCR) of the U.S. Department of Education, pursuant to 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. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, the District agrees to implement the following Resolution Agreement.

**Term I: Staff Training**

- A. Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR for review and approval:
- i. Draft materials to train, at a minimum, all administrators, counselors, nurses, and special education staff at XXXX School (“the School”) about disability discrimination, including, at a minimum:
    - a. The District’s “child find” obligations;
    - b. Evaluations to determine eligibility under the Individuals with Disabilities Education Act (IDEA) and under Section 504;
    - c. Recognizing, evaluating, and determining eligibility for students who have or who are suspected of having an emotional disturbance or emotional illness; and
    - d. The need to consider “Child Find” and evaluations when requiring students to have mental health evaluations as a disciplinary consequence.
  - ii. The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to staff.
- B. Within sixty (60) calendar days of receiving OCR’s final approval of the materials and trainer(s), the District will provide the training to all staff at the School identified in Part I(A)(i) above.
- C. Within thirty (30) calendar days of the training being provided to staff at the School, the District will provide to OCR:
- i. The date, time, and location of the training;
  - ii. Confirmation that the approved trainer(s) delivered the training;
  - iii. The agenda and materials from the training;
  - iv. The names and titles of all staff who attended the training; and
  - v. The name(s) and title(s) of all staff who did not attend the training, and an explanation for each person’s absence.

## Term II: Policy Revisions

- A. Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR for review and approval revised District policies and regulations regarding “child find” and evaluations. All policies and regulations related to “child find” and evaluations will be revised, as appropriate. The revised policies and regulations will include, at a minimum, a statement that the District’s “child find” and evaluation obligations may be triggered even if a parent or guardian does not request an evaluation, and under what circumstances such obligations may be triggered.
- B. Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR for review and approval revised District policies and regulations regarding mental health evaluations as a disciplinary consequence for students. All policies and regulations related to mental health evaluations will be revised, as appropriate. The revised policies and regulations will include language about the need to consider “child find” and evaluations.
- C. Within thirty (30) calendar days of receiving OCR’s final approval of the revised policies and regulations, the District will provide to OCR:
  - i. Copies of the final, revised policies and regulations;
  - ii. Records showing that the revised policies and regulations were adopted by the District;<sup>1</sup> and
  - iii. Records showing that the revised policies and regulations have been disseminated to all District staff.<sup>2</sup>

## Term III: Individual Student

- A. If the Student returns to the District, the District will present the Complainant an offer to evaluate the Student for suspected disabilities. If the Complainant consents to the evaluation, the District will initiate the evaluation and placement process. The evaluation and placement process will be procedurally consistent with 34 C.F.R. §§ 104.35 and 104.36, including administering evaluative assessments specifically designed to determine disability, considering information from a variety of sources, convening a group of persons knowledgeable about the student (a multidisciplinary “Team”), evaluative data and placement options, and documenting and carefully considering the information presented. The District will ensure that any decisions made at this placement meeting reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student’s parents or guardians (“parents”) are invited to the meeting and will permit the Student’s parents to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Student’s parents and their invitees. The Team will include District employees who have knowledge of the matters being considered by the Team.

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<sup>1</sup> For example, minutes from board meetings.

<sup>2</sup> For example, a copy of an email with all staff in the “To” line.

- B. Within thirty (30) calendar days of the offer for evaluation, the District will provide OCR a copy of this offer and the Complainant's response to this offer.
- C. If the Complainant consents to the evaluation, within ten (10) calendar days of the provision of consent, the District will submit documentation to OCR that includes the following regarding the meeting described in Part IV(A) of this Agreement:
- i. A list of the individuals who attended the meeting, and each individual's name, title, and role in the meeting;
  - ii. Documentation of the District's invitation to the parents to attend the meeting and obtain their input;
  - iii. A copy or summary of the information the Team considered in reaching its determination regarding whether the Student qualified as a student with a disability;
  - iv. Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
  - v. Documentation that the Complainant was notified in writing of the Team's determination; and
  - vi. Documentation that the District provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II.
- D. If the Team determines that the Student qualifies as an individual with a disability per the procedures discussed in Part IV(A), above, the Team will determine whether the Student is entitled to compensatory education due to having not received special education or related services during the 2015-2016 and 2016-2017 school years. Specifically, the Team will consider what, if any, compensatory services, including educational, social, or emotional, are owed to the Student as a result of the Student not receiving special education or related services during the 2015-2016 and 2016-2017 school years. Based on the Team's findings, the Team will determine the type and number of hours of compensatory services, if it determines that such services are necessary, to make up for any missed educational services. The Team will then develop a plan for providing those compensatory services to the Student within six months. The District will promptly notify the parents in writing of the compensatory services being offered at no cost to the parents and the proposed, prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 104.36. The District will ensure that any decisions reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Student's parents and their invitees. The Team will include District employees who have knowledge of the matters being considered by the Team.

- E. Within thirty (30) calendar days of the meeting described in Part IV(D), the District will submit documentation to OCR that includes the following:
- i. A list of the individuals who attended the meeting, and each individual's name, title, and role in the meeting;
  - ii. Documentation of the District's invitation to the parents to attend the meeting and obtain their input;
  - iii. A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
  - iv. Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
  - v. Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions;
  - vi. A plan for the prompt provision of compensatory services to the Student at no cost to the parents;
  - vii. Documentation that the Complainant was notified in writing of the compensatory services offered by the District; and
  - viii. Documentation that the District provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II.
- F. Within six (6) months of the meeting, the District will submit documentation to OCR demonstrating that all of the compensatory services determined by the Team have been provided to the Student.
- G. If the Team determines that the Student qualifies as an individual with a disability per the procedures discussed in Part IV(A), above, within ten (10) calendar days of that determination the District will convene a team of individuals to hold a manifestation determination meeting regarding the Student's exclusion during the 2016-2017 school year.. The meeting will comply with all applicable laws and regulations for manifestation meetings. The District will conduct the manifestation determination meeting in accordance with the procedural requirements of Section 504 and, if applicable, the Individuals with Disabilities Education Act (IDEA) requirements. If it is determined that the Student's behaviors were a manifestation, the District will offer the Student appropriate compensatory services.
- H. If the Team determines, in the meeting described in Part IV(G) above, that the conduct that resulted in the Student's exclusion was a manifestation, within 30 days of that determination, the District will confirm in writing to OCR that any information related to disciplinary incidents in which the Student was involved at the School during the 2016-2017 school year will not be used detrimentally against the Student, including using the information as a means of any progressive discipline against the Student.

- I. If the meeting described Part IV(G) above takes place, the District will, within 30 days of the meeting, provide to OCR:
  - i. Written assurance that the Student’s educational files were reviewed; and
  - ii. Copies of information that was removed, added, or modified in the Student’s files related to any disciplinary incidents in which the Student was involved at the school during the 2015-2016 school year.

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.

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 the Agreement, if necessary, OCR may visit the District, interview employees and students of the District, 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 regulation implementing Section 504 and Title II, 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 Goshen County Public Schools:

/s/ \_\_\_\_\_  
Jean Chrostoski, Superintendent

March 30, 2017 \_\_\_\_\_  
Date