

Voluntary Resolution Agreement
Jefferson County School District
OCR Case Number 08-17-1231

OCR and Jefferson County School District (District) enter into this agreement to resolve the allegation in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures the U. S. Department of Education, Office for Civil Rights, (OCR), that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation at 34 Code of Federal Regulations Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, 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 and public entities, respectively.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

REQUIRED ACTIONS:

1. By November 1, 2017, the District will, consistent with its existing special education policies and procedures, convene a multidisciplinary evaluation team (MET) meeting for students: [Section Redacted].
2. By September 30, 2017, the District will provide individual notice to the parents of special education students included in Exhibit C of the District's May 11th data response not specifically identified above in Agreement term 1.

The notice will include:

- a. An offer to promptly hold an MET meeting for the identified student; and
 - b. The name and contact information of a District representative who will coordinate meeting requests from parents.
3. For each MET convened, the team members will specifically consider whether during the 2016-17 school year the District provided the required number of minutes of special education services required by each student's Individual Education Program (IEP), and whether any compensatory or other remedial services are required due to any identified loss of service. The District will maintain documentation of the team's discussion and decision for each student meeting convened.
 - a. For each student for whom compensatory or other remedial services are determined to be necessary, the District will provide OCR with a schedule for providing the services by qualified special education staff member(s) and documentation demonstrating the completed provision of services.

- b. Should the District determine that compensatory education or other remedial services are not necessary, the District will provide to OCR a written explanation of the reasons for the determination within the documentation for the MET meeting.
- c. For each completed MET meeting, the District will ensure and maintain documentation demonstrating that notice of procedural safeguards is provided to the student's parent(s).

REPORTING REQUIREMENT:

By December 31, 2017, and for each MET meeting convened pursuant to items 1-3 above, the District will provide OCR with a copy of the MET meeting minutes or notes, a copy of any revisions to the Student's IEP, documentation of any input provided by the student's parents, and documentation demonstrating that procedural safeguards were provided to the parents. OCR will review the documentation submitted to ensure that the District has 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.¹

4. The District will develop and provide to OCR a Service Delivery Plan (Plan) for ensuring that all special education students attending Welchester Elementary School for the 2017-18 school year will receive all required special education service minutes provided for in each student's IEP.

The Plan:

- a. Will address how the District will ensure services for the current number of enrolled special education students and any additional students who enroll at the school throughout the 2017-18 school year; and
- b. Include steps the District will implement to monitor the appropriate delivery of all required service minutes in accord with each students' IEP requirements throughout the school year, including students who enroll throughout the school year.

REPORTING REQUIREMENT:

By December 31, 2017, the District will provide to OCR a copy of the Plan required by Agreement Term 4 and the then current number of special education students receiving services via an IEP and attending Welchester Elementary School. By May 31, 2018, the District will provide a summary report of the current number of special education students receiving special education services pursuant to an IEP and relevant documentation demonstrating implementation of the Plan to ensure delivery of required service minutes required by any recently enrolled students receiving special education pursuant to an IEP.

¹ Except in extraordinary circumstances, OCR does not substitute its judgment for the decisions made by a 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 Section 504 team described in Paragraph 3 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.

5. The School will draft a Memorandum for distribution to all instructional staff and administrators at Welchester Elementary School advising them to ensure the provision of a free appropriate public education that all provisions of students' IEPs or Section 504 Plans must be fully implemented, and that staff should appropriately notify administrators or the District's Section 504 Coordinator when it is suspected that a student's IEP or 504 plan is not being implemented.

The Memorandum will include:

- a. The contact information for the appropriate administrator (s) who may be contacted to report concerns about students' special education services and for further guidance and information regarding the provision of a free appropriate public education to students with disabilities.
 - b. A notice that the Section 504 and Title II prohibits retaliation against individuals asserting rights protected by these Section 504 and Title II, including advocating for the provision of a free appropriate public education for students with disabilities through the implementation of an IEP or Section 504 plan.
 - c. A statement that individuals reporting concerns regarding the District's provision of special education services will not be subjected to any form of retaliation, and that retaliation is expressly prohibited by law, including intimidating, threatening, coercing, or discriminating against individuals for the purposes of interfering with any right or privilege secured by Section 504 and Title II.
6. Within 30 days of the effective date of this Agreement, the District will submit to OCR for review and approval a draft of the Memorandum. The District will consider and respond to any feedback from OCR with respect to the draft memorandum prior to issuing the Memorandum to staff. Upon OCR's approval of the Memorandum, the District will distribute the Memorandum to all staff and administrators at Welchester Elementary School.

REPORTING REQUIREMENT: By September 30, 2017, the School will provide OCR with a copy of the final Memorandum that was delivered to all Welchester staff and administrators, including documentation or other verification of delivery to and receipt.

ADDITIONAL ACKNOWLEDGEMENTS:

The District understands that by signing this Agreement, it agrees to provide the foregoing 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 and its implementing regulation at 34 C.F.R. § 104.33-104.36 and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. § 35.130, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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

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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.

This Agreement will become effective immediately upon the signature of the District's representative below.

/S/

For Jefferson County School District

Effective Date