

**Resolution Agreement
Denver Public School District
OCR Case Number 08-18-1321**

In order to resolve allegations in OCR Case Number 08-18-1321 filed against Denver Public 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 (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 will implement the following terms of 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 September 15, 2018, the District will introduce the complainant to a District Parent Liaison, who will be available to assist the Complainant with educational matters related to the Student’s disability-related needs until the Student graduates in XXX.

REPORTING REQUIREMENT A: Within 7 days of the introduction, the District will provide OCR with documentation demonstrating that the introduction has been made and that the Complainant has been informed of how he may contact the Parent Liaison and what support he can reasonably expect from the Parent Liaison.

2. By September 15, 2018, the District will convene a Section 504 meeting and invite the Complainant and his Parent Liaison to participate in the meeting as part of the Student’s Section 504 team. The purpose of the meeting is to determine whether the Student consistently received accommodations in all of his classes, as outlined by his existing Section 504 Plan, throughout the 2017-2018 school year. If the Section 504 team determines that the 504 Plan was not fully implemented for any period of time, they will also 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 failure to implement the Student’s Section 504 Plan during the 2017-2018 school year.

REPORTING REQUIREMENT A: Within 15 days after the meeting, the District will provide OCR with a statement that it has complied with Agreement Item 3 of this Agreement. Additionally, the District will provide OCR with a copy of the meeting notes that reflect information the Section 504 team considered and the rationale for its decisions. 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.

If the District determines 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

REPORTING REQUIREMENT B: After OCR has determined that the Section 504 procedural requirements were met in making the determination under Agreement Item 2, the District will take steps to implement the compensatory services and remedial measures, if any, agreed upon by the Section 504 team.

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. By September 21, 2018, the District will conduct a full re-evaluation of the Student for both XXX and XXX *or* provide documentation to OCR that demonstrates that the Student has been evaluated consistent with the requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.35 and 104.36 since he began attending School.

Within 15 days after conducting the Student's evaluation, the District will convene a Section 504 meeting and invite the Complainant and his Parent Liaison to the meeting. The purpose of the meeting is to determine an appropriate placement and accommodations for the Student.

REPORTING REQUIREMENT A: By October 12, 2018, the District will provide OCR with supporting documentation that it has complied with Agreement Item 3 of this Agreement. Additionally, the District will provide OCR with a copy of the meeting notes that reflect information the Section 504 team considered, a copy of the Student's Section 504 Plan or individualized education program, and the rationale for its decisions. If the Complainant declines the invitation to the meeting, the District shall provide a copy of

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.

the invitation to the meeting and any notes and records of communications with the Complainant showing the Complainant's declination.

4. If the Student's Section 504 Plan is changed as a result of his re-evaluation, the District will provide notice to the Student's teachers of the Student's modified Section 504 Plan within 24 hours. This notice will inform teachers that they must implement all accommodations as outlined in the Student's Section 504 Plan.

REPORTING REQUIREMENT A: By October 12, 2018, the District will provide OCR with a copy of the Student's SY 2018-2019 class schedule, a copy of the notice that was issued to teachers, and a description of how the notice was disseminated to the Student's teachers and relevant staff.

5. By October 26, 2018, the District will convene a Section 504 meeting and invite the Complainant and his Parent Liaison to the meeting.² The purpose of the meeting is to determine whether, in light of the Student's most recent evaluation, the Student's placement was inappropriately changed when the District changed his disability from "actual" to "perceived" and whether the District failed to appropriately place the student and provide accommodations for his diagnosis of XXX.

If the Section 504 team determines that the Student's placement was changed in a manner that is not consistent with the requirements of the regulations that implement Section 504 or that the Student was not appropriately placed, they will also determine the amount and nature of compensatory services, if any, the District will provide, or other remedial measures the District will take to remedy deficiencies in the Student's placement, accommodations, or special education related services during the 2017-2018 school year.

REPORTING REQUIREMENT A: Within 15 days after the meeting, the District will provide OCR with a statement that it has complied with Agreement Item 5 of this Agreement. Additionally, the District will provide OCR with a copy of the meeting notes that reflect information the Section 504 team considered and the rationale for its decisions. 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.

If the Section 504 team determines 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.³

² This meeting may coincide with the meeting required by Agreement Item 3.

³ 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

REPORTING REQUIREMENT B: After OCR has reviewed and determined that the Section 504 procedural requirements were met in making the Section 504 team determination under Agreement Item 5, the District will take steps to implement the compensatory services and remedial measures, if any, agreed upon by the Section 504 team.

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.

6. By August 20, 2018, the District will provide notice to all of the Student's SY 2018-2019 teachers to inform them of the Student's Section 504 Plan, the accommodations they are responsible for implementing, and who they may contact if they have any questions. This notice will inform the Student's teachers that implementation of the Section 504 Plan is mandatory.

REPORTING REQUIREMENT A: Within ten days of providing notice to the Student's teachers, the District will provide OCR with a copy of the Student's class schedule, a copy of the notice that was issued to teachers, and a description of how the notice was disseminated.

7. The District will provide training to the School's Section 504 Coordinator, Testing Coordinator, and Administrative Team, and other relevant staff determined by the District, on the Section 504 regulations at 34 C.F.R. §§ 104.33, 104.34, 104.35 and 104.36. 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 designed 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; (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; and (5) the definition of a disability, including hidden and specific learning disabilities, under Section 504.

concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

REPORTING REQUIREMENT A: By August 2, 2018, the District will provide its draft training materials to OCR for review and approval; 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 of the training materials and trainer, 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 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 that OCR will close the monitoring of this Agreement once 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/

7/12/18

Lead Operational Superintendent
Amber Elias
For Denver Public School District

Date