

Resolution Agreement
Colorado Springs SD 11
OCR Case Number 08-19-1492

The U. S. Department of Education, Office for Civil Rights (OCR) and Colorado Springs School District 11 (District) enter into this agreement to resolve the allegations in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures OCR that it will take the following actions to comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 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. 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.

- I. Compensatory Services.** The District reported that it completed a special education evaluation of the Student on November 12, 2019 but has not yet completed an eligibility meeting. At the Student’s eligibility meeting the District will ensure that the IEP team discusses whether compensatory education is owed to the Student. In making this determination, the team will consider, at a minimum, whether the District failed to timely evaluate the Student when the Complainant requested an evaluation on February 12, 2019.

The District will provide the Complainant with a meaningful opportunity to provide input into the determination, written notice of the determination made, and written notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree. After OCR has reviewed and accepted the determination of the team, the District will take steps to implement the compensatory services, if any, determined by the IEP team.¹

REPORTING REQUIREMENT I(A): By January 15, 2020, the District will submit to OCR:

1. a copy of the IEP eligibility meeting invitation;
2. a copy of the IEP signature page with signatures indicating the attendance of meeting participants;
3. documentation that the District provided the Complainant with her procedural safeguards;

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a Section 504 team or an IEP 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 or IEP teams propose compensatory services or remedial actions and those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the Recipient(s) of its concerns, and the Recipient(s) will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

4. a copy of the IEP or Section 504 plan drafted, if the Student was found eligible for an IEP or Section 504 plan.²;
5. documentation of any input provided by the Complainant at the eligibility meeting;
6. if the Student was found eligible for an IEP or Section 504 plan, the team’s decision regarding compensatory education, a narrative explaining the rationale for the decision, and whether the Complainant agreed with the decision;
7. any other documentation relevant to the compensatory education determination.

REPORTING REQUIREMENT I(B): Within thirty (30) calendar days from the date of OCR’s acceptance of the proposed compensatory services, if any, the District will provide documentation that it has provided or is in the process of providing the compensatory services. For compensatory services that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services are being provided as specified. If the Student is to receive compensatory services, the case will remain in monitoring until all compensatory services have been provided in full.

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 Title II. 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 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.

For the District:

/s/

12/20/2019

Alvin Brown, Director of Equal Opportunity Programs

Date

² 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 will notify the District when it has completed this review.