

RESOLUTION AGREEMENT
Westminster Public Schools (Colorado)
OCR Case Number: 08211354

Westminster Public Schools (the District) voluntarily enters this Resolution Agreement (Agreement) pursuant to Section 302 of OCR's *Case Processing Manual*. The Recipient voluntarily agrees 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. § 794, and its implementing regulations 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 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, and to resolve the Complainant's allegations.

The Complainant alleged that the District discriminated against her son (Student) based on disability. Specifically, the Complainant alleged that the District: 1) failed to implement the Student's individualized education program (IEP) during the 2020-2021 school year, thereby denying the Student a free appropriate public education (FAPE); and 2) treated the Student differently based on disability when it denied the Complainant's interdistrict transfer (IDT) request for the 2021-2022 school year.

This Agreement does not constitute an admission by the District that it violated any law, discriminated against the Complainant, or engaged in any wrongdoing. Prior to the completion of OCR's investigation, the District agreed to resolve this complaint. Accordingly, the District voluntarily agrees to take the following actions:

ACTION ITEMS AND REPORTING REQUIREMENTS

Action Item 1 – Compensatory Education

- A. **By June 1, 2023**, the District will convene a meeting of a group of persons knowledgeable about the Student, as defined by Section 504, to review, carefully consider, and document information from a variety of sources to determine what, if any, compensatory and/or remedial services the Student is entitled to as a result of any failure on the part of the District to provide appropriate regular and/or special education or related services to the Student during the 2021-2022 school year.
- B. The District will invite the Student's parent(s)/guardian(s) to the meeting and provide notice of the procedural safeguards including the right to challenge the determination regarding the Student's identification, evaluation, or educational placement through an impartial due process hearing.
- C. If the group determines that the Student requires compensatory and/or remedial services, the group will develop a plan for providing such services by **October 1, 2023**.

Reporting Requirements for Action Item 1

- A. **By July 1, 2023**, the District will submit to OCR documentation evidencing its compliance with Action Item 1, including:
1. A copy of the notification sent to the Student’s parent(s)/guardian(s), including the date and time of the meeting, the notice of procedural safeguards, and proof of transmission to the parent(s)/guardian(s) (e.g., email chain, certified mail and tracking receipt, etc.);
 2. A list of all participants in the meeting (including names, titles, role in the meeting);
 3. Records of all information considered during the meeting;
 4. Minutes or notes from the meeting, if any;
 5. An explanation of the team’s decisions made during the meeting; and
 6. A description of and schedule for any compensatory and/or remedial services (if any) determined appropriate for the Student. If the group determines that compensatory and/or remedial services are not required, the District will explain why in its report.
- B. If the District determines that compensatory and/or remedial services are appropriate for the Student, by **November 1, 2023**, the District will provide documentation to OCR demonstrating it provided the services, including:
1. The date(s), time(s), and location(s) that the services were provided;
 2. A description of the services provided and how they were provided; and

Action Item 2 – Policies and Procedures

By June 1, 2023, the District will review and amend its IDT policies and procedures, including, but not limited to, Board Policy JFBB, the District’s IDT application and transfer agreement, the District’s Enrollment Guide (available at <https://www.westminsterpublicschools.org/Page/10995>), and its webpage providing information about school choice, including IDTs. The District’s review will ensure that:

- A. The District will revise each of the above-stated items so that they include an explicit statement of nondiscrimination that advises readers that the District will not discriminate against students with disabilities in the administration, processing, and determination of an IDT request.
- B. The District will revise Board Policy JFBB, the District’s Enrollment Guide (available at <https://www.westminsterpublicschools.org/Page/10995>), the District’s IDT application and transfer agreement, and its webpage providing information about school choice, including IDTs, so that they:
1. clarify that the District may deny IDT requests based on a lack of space in a school, grade level, or classroom and will apply space-related criteria in uniform and nondiscriminatory ways;

2. clarify that the District may deny an IDT request based on the District's lack of the special education program required by the home school district's IEP and/or Section 504 Plan for the student; and
3. explain why the District is inquiring about a student's special education status and requesting a copy of a student's Section 504 plan or IEP from the home district and how the District intends to use the information in determining whether to grant or deny an IDT request. This explanation will clarify that the student's disability or special education services required by the home district's IEP or Section 504 plan will be used to determine whether the District has the required special education program and/or has space in the requested school, grade level, and/or classroom.

Reporting Requirements for Action Item 2

- A. **Within thirty (30) days of OCR's approval of the revisions required by Action Items 2.A and 2.B above**, the District will adopt and implement the revised Board Policy JFBB, the District's IDT application and transfer agreement, the District's Enrollment Guide(available at <https://www.westminsterpublicschools.org/Page/10995>), and its webpage providing information about school choice, including IDT, and publish the above. Within ten (10) days of their adoption and implementation, the District will provide OCR with documentation of their adoption and implementation, including the uniform record locator (URL) for the revised Board Policy.
- B. **Within sixty (60) days of OCR's approval of the revisions required by Action Items 2.A and 2.B**, the District will replace all printed versions of the former IDT agreement(s) with the revised agreement and provide written confirmation of this step to OCR.

Action Item 3 – Student Application to the District

Within thirty (30) days of OCR's approval of Action Item 2, the District will provide written notice to the Complainant that she may apply for an IDT for the Student. If the Complainant accepts the invitation, the District will consider the Complainant's IDT application in accordance with the approved policies noted in Action Item 2. The District will provide the Complainant with written notice of its decision and why the decision was made.

Reporting Requirements for Action Item 3

Within fifteen (15) days of considering the application, the District will submit to OCR documentation evidencing its compliance with Action Item 3, including:

1. A list of all personnel who participated in the IDT decision (including names, titles, role in the meeting);

2. Records of all information considered during the meeting, including minutes or notes from the meeting, if any; and
3. A draft copy of the written notice of its decision, including an explanation of the decision, for OCR's review and approval.

Action Item 4 – Guidance Memorandum

- A. **Within thirty (30) days of OCR's approval of Action Item 2**, the District will submit for OCR's review and approval a memorandum that provides guidance and information about the IDT process to its administrators and staff who: communicate with parents, District employees, and others (e.g., employees of the student applicant's home school) about the IDT process; review, provide input about, and/or decide any IDT requests; and implement the IDT agreement and related policies, documents, and information (e.g., on the website). The memorandum will explain: (1) the revisions stated in Action Item 2; and (2) how Section 504 and Title II prohibit the District from discriminating against students with disabilities in the IDT process.
- B. **Within fifteen (15) days of OCR's approval of the guidance memorandum**, the District will disseminate it to the administrators and staff identified in Action Item 4.A above via email and any other methods designed to reach the maximum number of recipients possible (e.g., placement in internal mailboxes, mailing through the U.S. Postal Service, or distribution at District and school trainings).

Reporting Requirements for Action Item 4

Within ten (10) days of disseminating the memorandum as required by Action Item 4.B, the District will provide verification to OCR that it completed the requirements by producing the email it sent to administrators and staff and by informing OCR of any other distribution methods used.

Action Item 5 - Training

- A. **Within ninety (90) days of OCR's approval of Action Item 2**, the District will provide training on the content of the guidance memorandum to the individuals listed in Action Item 4.A. The training will be provided by a qualified individual who has sufficient knowledge of, experience with, or education about not discriminating on the basis of disability when evaluating IDT requests and how to evaluate whether required special education and related services constitute a fundamental alteration of an IDT program. The training will include time for questions and answers. In the event that any individuals required to attend this training are unable to attend, the District will provide a make-up training session within sixty (60) days.
- B. **Within thirty (30) days of OCR's approval of Action Item 2**, the District will provide to OCR for its review and approval information about the education and experience of the individual(s) selected to give the training and a copy of the additional proposed training

materials, if any, which will be consistent with the memorandum described in Action Step 4.A at least thirty (30) days before the proposed training. Alternatively, **within fifteen (15) days of OCR's approval of the guidance memorandum described in Action Step 4.B** the District may request that OCR provide the training.

Reporting Requirements for Action Item 5

Within thirty (30) days of completing the training required by Action Item 5.A, the District will provide to OCR written verification that the training has taken place. The verification will state the date(s) on which the training occurred, the number of attendees for the date(s), a copy of the sign-in sheets for the training, and a copy of all documents provided to the attendees.

By signing the Agreement, the District understands and agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of the Agreement, 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 the Agreement.

The District understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the District is in compliance with the terms of the Agreement and the statues and regulations at issue in the case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice for judicial proceedings to enforce the specific terms of the Agreement and the applicable statues and regulations. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

EXECUTION:

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

Dr. Steve Sandoval
Executive Director of Special Services
Westminster Public Schools

Date