

**RESOLUTION AGREEMENT**  
**Hot Springs County School District #1**  
**OCR Case 08-23-1023**

Hot Springs County School District #1 (District) agrees to implement this Resolution Agreement (Agreement) to resolve the violations identified by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), and their implementing regulations in the above-referenced OCR case. The District assures OCR that it will take the following actions to comply with the requirements of Section 504 and Title II.

In this case, OCR found, by a preponderance of the evidence, that the District failed to fully implement the Student's individualized education program (IEP) and conduct a timely manifestation determination for the Student before subjecting him to a disciplinary significant change in placement.

**TERM I – STAFF TRAINING**

The District will train all relevant staff – including, but necessarily limited to, all District school principals and Special Education Department staff – about, at a minimum:

- Section 504's and Title II's prohibition on discrimination against students, including students with IEPs, on the basis of disability;
- the District's legal obligation to provide a free appropriate public education (FAPE) to each qualified student with a disability in the District's jurisdiction, regardless of the nature or severity of the student's disability;
- the definition of an "appropriate education" under Section 504;
- how implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act (IDEA) is one means of meeting Section 504's FAPE requirement;
- full implementation of students' IEPs;
- ensuring that a FAPE is continuously made available to identified students with disabilities who are referred to Northwest BOCES;
- the timing of manifestation determinations; and
- procedures for reevaluating and placing students with disabilities.

**Reporting Requirement A:** Within 30 calendar days of this Agreement being signed, the District will submit to OCR for review and approval:

- draft training materials;
- the name(s), title(s) or position(s), and qualifications of one or more qualified individuals to provide the training; and
- a list of proposed individuals to be trained, including each person's name and title or position.

The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the training materials, trainer(s), and list of trainees, and notice from OCR that no further reporting is required for Reporting Requirement A.

**Reporting Requirement B:** Within 30 calendar days of receiving notice from OCR that no further reporting is required for Reporting Requirement A, the District will ensure that the approved trainer(s) conducts the training, using the approved materials, for all individuals on the approved list of trainees. The District will also submit to OCR:

- the date, time, and location of the training;
- confirmation that the approved trainer(s) delivered the training;
- confirmation that the approved materials were used for the training;
- the names and titles or positions of all staff who attended the training; and
- if applicable, the name(s) and title(s) or position(s) of all individuals who did not attend the training, an explanation for each person's absence, and a plan to train each person (if possible).

The District will promptly and fully address OCR's feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement B or Term I.

## **TERM II – COMPENSATORY SERVICES OR OTHER REMEDIAL MEASURES FOR THE STUDENT**

Within 15 calendar days of this Agreement being signed, the District will offer to the Complainant, in writing, to convene a group of knowledgeable people (Team) to discuss whether the Student is owed compensatory services or other remedial measures (at no cost to the Student or Complainant) as a result of any denial of FAPE for the Student from August 24, 2022 to October 27, 2022; and, if so, to create a written plan (Plan) to provide compensatory services or other remedial measures to the Student.

In the written offer to hold a Team meeting, the District will:

- explain the purposes of the meeting;
- explain that the Complainant is permitted to invite others who are knowledgeable about the Student to attend the meeting;
- notify the Complainant that to accept the offer, she must respond, within 15 calendar days; and
- provide the name, title or position, phone number, and email address of the District employee to whom the Complainant must respond.

If the Complainant accepts the District's offer to convene a meeting, the District will ensure that:

- the meeting occurs within 30 calendar days of the Complainant accepting the offer;
- the meeting occurs at a date, time, and location that are mutually agreed upon by the District and Complainant;
- the Team and meeting are consistent with the procedural requirements of Section 504;
- the Complainant is permitted to invite persons knowledgeable about the Student to attend the meeting;
- the Team carefully considers all information provided by all parties present at the meeting; and
- within 10 calendar days after the meeting, the District:
  - notifies the Complainant, in writing, of the decisions made at the meeting;

- provides the Complainant with a copy of the Plan created at the meeting, if any; and
- provides the Complainant with a copy of applicable procedural safeguards.

If a Plan is created, the Plan will include the:

- type(s) of compensatory services or other remedial measures to be provided;
- amount(s) of compensatory services or other remedial measures to be provided;
- name(s) and title(s) or position(s) of the person(s) who will be responsible for providing the compensatory services or other remedial measures;
- location(s) where the compensatory services or other remedial measures will be provided;
- schedule for the provision of the compensatory services or other remedial measures; and
- name and title or position of the District employee who will ultimately be responsible for implementation of the Plan.

The District will implement the Plan, if any, with fidelity.

**Reporting Requirement C:** Within 20 calendar days of the District sending its offer to hold a Team meeting to the Complainant, the District will submit to OCR a copy of the offer, the Complainant's response(s), if any, and all other related communications with the Complainant.<sup>1</sup> The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement C.

**Conditional Reporting Requirement D:** If the Complainant accepts the District's offer to have a Team meeting, then, within 15 calendar days of the Team meeting, the District will submit to OCR:

- copies of all communications with the Complainant related to the meeting, including documentation showing that the Complainant:
  - was invited to participate in the meeting;
  - was informed that she could invite others who are knowledgeable about the Student to the meeting;
  - was notified of the decisions made at the meeting;
  - received a copy of the Plan, if any; and
  - received a copy of the District's procedural safeguards;
- a list of all individuals who attended the meeting, including each individual's first and last name and title or position;
- notes or minutes from the meeting reflecting:
  - the Team's decisions;
  - the perspectives shared by individuals during the meeting;
  - the information that the Team considered in reaching its decisions; and
  - the rationales for the decisions made at the meeting.

The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement D.<sup>2</sup>

---

<sup>1</sup> For purposes of this Agreement, "communications" include, but are not limited to, all emails, letters, text messages, electronic messages, and forms.

<sup>2</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

**Conditional Reporting Requirement E:** If a Team meeting occurs and if a Plan is created, the District will submit to OCR, within 90 calendar days of receiving notification from OCR that no further reporting is required for Reporting Requirement D or within 15 calendar days of fully implementing the Plan, whichever occurs first, documentation showing that the District has implemented or is in the process of implementing the Plan. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement E or Term II.<sup>3</sup>

### **GENERAL REQUIREMENTS**

The District understands that by signing this Agreement, the District 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, Title II, and their implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, respectively, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR will close this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations, 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 the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR will give the District written notice of the alleged breach and 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/

2/27/23

\_\_\_\_\_  
Dustin Hunt, Superintendent

\_\_\_\_\_  
Date

<sup>3</sup> This case will remain in monitoring until all compensatory services or other remedial measures (if any) have been provided.