

**Resolution Agreement
Lamar Re-2 School District
Complaint Number 08-23-1455**

In order to resolve allegations 1-3 in Case Number 08-23-1455, filed against the Lamar Re-2 School District (District) with the Office for Civil Rights (OCR) of the U.S. Department of Education, 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. §§ 12131–12134, and its implementing regulation at 28 C.F.R. Part 35, the District agrees to implement the following Resolution Agreement.

During the investigation, OCR identified compliance concerns related to allegations 1-3, which involve the District's evaluation and re-evaluation of the Student and provision of FAPE to the Student. Prior to completion of OCR's investigation, the District expressed an interest in voluntarily resolving the complaint pursuant to Section 302 of OCR's *Case Processing Manual* to address the identified compliance concerns. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District.

The District agrees to take the actions in this Agreement to ensure compliance with the requirements of Section 504 and its implementing regulation, 34 C.F.R. Part 104, and Title II and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of federal financial assistance and public entities, respectively.

Training

1. The District shall provide training to all District Administrators at both the building and District level and all special education teachers regarding the Section 504 regulation requirements related to evaluation and placement and FAPE. At a minimum, the training will cover information related to the compliance concerns identified in OCR's investigation, including:
 - a. what constitutes a change in placement;
 - b. when an evaluation or re-evaluation should be conducted because the District anticipates a change of placement;
 - c. when an evaluation or re-evaluation should be conducted because a series of disciplinary or quasi-disciplinary incidents have operated as a change in placement;
 - d. when an evaluation or re-evaluation should be conducted because the District has knowledge that a student's individualized needs have changed or that a student's IEP is not sufficient to meet the student's individualized needs; and
 - e. the District's obligation to provide FAPE to all students with disabilities within its jurisdiction.

The training will be conducted by an outside provider and not by a District employee or a BOCES employee associated with the District.

REPORTING REQUIREMENTS:

Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR the qualifications of the proposed trainer and an electronic copy of the proposed training. The District will promptly and fully address OCR's feedback, if any, until the District receives approval from OCR regarding the proposed trainer and training.

Within thirty (30) calendar days of OCR's approval of the proposed trainer and training, the District will provide the training to the staff identified in this Item. The District shall also provide OCR a certificate signed by each employee who received the training.

Evaluation Practices

2. The Superintendent, or an administrator designated¹ by the Superintendent, shall develop an informal protocol, to be included in the District's special education handbook or materials that it provides to staff, that outlines the evaluation and placement process, including the situations in which the District shall evaluate or reevaluate a student prior to a change in placement or when a student's individualized needs have changed or that a student's IEP is not sufficient to meet the student's individualized needs. The protocol can be in the form of a flow chart, bullet-point outline, or other similar format.

REPORTING REQUIREMENTS:

Within thirty (30) calendar days of the completion of the training in Item 1, the District will submit to OCR a draft of the protocol. The District will promptly and fully address OCR's feedback, if any, until the District receives approval from OCR regarding the protocol.

Within fourteen (14) calendar days of OCR's approval of the protocol described in this Item, the District shall make the protocol available in all relevant handbooks used by the District in the special education process and shall email all certified staff and administrators a copy of the protocol. The District shall provide OCR documentation to show that it has distributed and notified staff of the protocol as required by this Agreement.

Individual Remedies

3. The District shall fully re-evaluate the Student and then convene the Student's IEP team to determine an appropriate placement for the Student consistent with the evaluation and the Section 504 regulation. The Student's IEP team shall also consider if the failure to evaluate or re-evaluate the Student, as described in OCR's closure letter, or any failure to implement an IEP designed to meet the Student's individualized needs, denied the Student a FAPE during the 2022-23 school year. If the team determines that such a failure or denial occurred, the team will determine what compensatory educational services are required for the Student.

¹ OCR recognizes that the District partners with a BOCES to provide special education services for the District. For purposes of this Agreement Item, the District Superintendent may designate the responsibility to develop the protocol and distribute it to District staff to a BOCES Administrator.

REPORTING REQUIREMENTS:

Within sixty (60) calendar days of this Agreement being signed, the District shall complete the evaluation of the Student. Within thirty (30) calendar days of the completion of the evaluation, the District shall hold the IEP meeting described in this item. Within fourteen (14) calendar days of the IEP meeting described in this item, the District shall provide OCR a copy of all information considered at the meeting, a copy of the IEP developed at the meeting, and a schedule of how it will provide any compensatory educational services deemed necessary at the meeting. The District should provide clear explanations, supported by reference to the evaluation materials and other sources of information, that support the team's determinations.

By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. During the monitoring of this Agreement, OCR may visit the District to interview staff and students, and request such additional reports or data as 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.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District is in compliance with the terms of the Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement proceedings or refer this case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms and obligations of the Agreement and the applicable statutes 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.

This Agreement will become effective upon the signature of the representative for the District.

For Lamar Re-2 School District:

_____/s/_____
Chad Krug
Superintendent

Date