

# RESOLUTION AGREEMENT

## Anderson School District 2

Complaint No. 11-14-1186

Anderson School District 2 (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve the above-referenced complaint.

1. This Agreement does not constitute an admission by the District of any violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.
2. Full implementation of this Agreement by the District resolves the allegations in, and OCR's compliance concerns regarding, the above-referenced complaint.
3. All actions taken by the District pursuant to this Agreement will comply with the requirements of Section 504 and Title II.
4. Within four weeks of executing this Agreement, the District will evaluate the Student to determine whether the student has a disability and whether the conduct that gave rise to the District's Spring 2014 expulsion of him from XXXX (the School) and placement in the XXXX School was a manifestation of the Student's disability. In making this determination, the District will: (a) draw upon a variety of sources; (b) document and carefully consider the medical and other information obtained from all sources (including the Section 504 Plan developed by and information concerning the Student's participation at the Alternative School); (c) ensure that the determination is made by a group of individuals knowledgeable about the Student, the meaning of the evaluation data, including the medical evidence, and the placement options; and (d) notify the Complainant of her due process rights.

### Reporting Requirements

Within two weeks of conducting the Manifestation Determination review/evaluation described in Provision 4, the District will provide OCR with a narrative description of and all documentation relating to its efforts to fulfill the commitments in Provision 4 and all resulting actions taken, including copies of all meeting notes, minutes, decisions, the evidence considered and the due process notice provided to the Complainant. OCR will review the documentation submitted to ensure that the District met the procedural and other requirements of the regulation implementing

Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

5. If the District determines that the conduct that gave rise to the above-referenced expulsion from the School and placement at the Alternative School was a manifestation of the Student's disability or resulted from the School's failure to either fully implement the Student's Student Intervention Plan (SIP) or develop a Section 504 Plan (e.g., like the one developed by the Alternative School), the School will:
  - a. Within three weeks of that determination, expunge the expulsion and placement and participation of the Student at the Alternative School from the Student's disciplinary and all other records (e.g., the Student's Alternative School grades and transcript) and allow the student to return to the School unless such placement is determined to be inappropriate by the District;
  - b. Within four weeks of that determination, conduct a reevaluation of the Student to determine whether a change is needed regarding the special education or related aids or services provided by the Alternative School pursuant to the Section 504 Plan developed by the Alternative School and, if it determines that changes to the Student's Section 504 Plan are needed, it will promptly develop and implement such an amended Section 504 Plan for the Student and provide the Student with FAPE, except that, if the District determines that a comprehensive psychoeducational evaluation is necessary as part of the reevaluation, it will conduct the reevaluation within eight weeks of the Manifestation Determination;
  - c. Within six weeks of that determination, conduct a meeting to which the Complainant is invited to evaluate the Student consistent with the requirements of Provision 4 (i.e., draw upon a variety of sources, etc.) and determine whether the Student is in need of compensatory education services (including the taking of tests and submission of assignments) as a result of the School's placement of the Student in the Alternative School or failure to either fully implement the Student's Student Intervention Plan or develop and implement a Section 504 Plan for him;
  - d. By August 30, 2015, provide the Student with all needed compensatory education services; and
  - e. By September 15, 2015, based on the Student's performance at the Alternative School in Spring and Fall 2014, while receiving the compensatory education services referenced above, and at the School during the 2013-2014 and 2014-2015 school years, amend the Student's 2013-2014 and 2014-2015 grades, transcript, and other records to remove indications that he attended the Alternative School.

### **Reporting Requirements**

If the District determines that the conduct that gave rise to the above-referenced expulsion from the School and placement at the Alternative School was a manifestation of the Student's disability or was a result of the School's failure to either fully implement his SIP or develop and implement a Section 504 Plan for him, the District will provide OCR with a narrative description of and all documentation relating to its efforts to fulfill the commitments in Provision 5 and all resulting actions taken, including the following.

- a. Within three weeks of any expungements made pursuant to Provision 5a, evidence indicating that it has expunged the expulsion and placement and participation of the Student at the Alternative School from the Student's disciplinary and all other records.
- b. Within three weeks of any reevaluation conducted pursuant to Provision 5b, copies of all meeting notes, minutes, decisions, the evidence considered, the Student's amended Section 504 Plan and the due process notice provided to the Complainant.
- c. Within three weeks of any meeting conducted pursuant to Provision 5c, copies of all meeting notes and minutes from the referenced meeting, all decisions made, the dates, times and locations that compensatory education services were provided to the Student, a description of what services were provided, and the names of the service providers. OCR will review the documentation submitted to ensure that the District met the procedural and other requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.
- d. By September 15, 2015, the dates, times and locations that any compensatory education services provided pursuant to Provision 5d, a description of what services were provided, and the names of the service providers.
- e. By September 30, 2015, the Student's 2013-2014 and 2014-2015 grades, transcript, and other records amended pursuant to Provision 5e.

If the District determines that the conduct that gave rise to the above-referenced expulsion from the School and placement at the Alternative School was not a manifestation of the Student's disability or was not a result of the School's failure to either fully implement the SIP or develop a Section 504 Plan, the District will provide OCR with a narrative description of and all documentation relating to its decisions, including copies of all meeting notes, minutes, the evidence considered and decisions, an explanation of the reasons for those decisions, and the due process notice provided to the Complainant. OCR will review the

documentation submitted to ensure that the District met the procedural and other requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

6. By June 3, 2015, with respect to each School student for whom the School has evidence indicating that the student might have a disability for which Section 504 might require that the school system provide the student with special education or related aids and services,<sup>1</sup> but whom the School has not evaluated pursuant to Section 504 or the IDEA, including each School student who has, during the 2014-2015 school year, had a SIP for more than one semester, the School will:  
(a) promptly determine, after consideration of data and progress, whether the student needs to be referred for additional evaluation for a Section 504 Plan and/or IEP; (b) if so, promptly conduct a meeting to which the parent or guardian of the student is invited to evaluate the student consistent with the requirements of Provision 4 and/or the IDEA (for any IEP); and (3) if it determines that the student is in need of a Section 504 Plan and/or IEP, promptly develop and implement a Section 504 Plan and/or IEP for the student and provide the student with FAPE.

### **Reporting Requirements**

By June 10, 2015, the District will provide OCR with a narrative description of and all documentation relating to its efforts to fulfill the commitments in Provision 6, including, with respect to each School student described in this Provision, the School's response to the above-referenced evidence, including the resulting Section 504 Plan and/or IEP, if any, and, if no Section 504 Plan or IEP was developed, the reasons why.

7. The School will, prior to imposing disciplinary action against any School student with a disability (whether the student has a Section 504 Plan or SIP<sup>2</sup>) that would constitute a significant change in the student's placement (including long-term suspensions of more than 10 days and, in some cases, cumulative short-term suspensions exceeding 10 days within a school year), adhere to the following procedures:

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<sup>1</sup> This standard does not provide that a student *must* be an individual with a disability for the School to be required to determine whether it should evaluate the student, but only that the School has before it evidence that the student *might* have a disability.

<sup>2</sup> OCR acknowledges that simply having a SIP or participating in the Response to Intervention does not, in and of itself, mean a child has a disability, and this language is not intended to supplant, amend or expand the District's Child Find obligations under Section 504 or IDEA.

- a. It will, consistent with the requirements of Provision 4, conduct a reevaluation of the student and determine whether the misconduct for which disciplinary action is proposed was a manifestation of the student's disability;
- b. If the group determines that the misconduct was not a manifestation of the student's disability, the School may discipline the student in the same manner as similarly situated students without disabilities are disciplined; and
- c. If the group determines that the misconduct was a manifestation of the student's disability, the School will not discipline the student, and the group will continue the reevaluation process to determine if the student's current placement is appropriate and, if not, provide the student with an appropriate placement.

### **Reporting Requirements**

By June 10, 2015, the District will provide OCR with a narrative description of and all documentation relating to its efforts to fulfill the commitments in Provision 7, including the name of each School student with a disability against whom, during the 2014-2015 school year, disciplinary action was considered or proposed that would have constituted a significant change in placement of the student, and copies of all meeting notes, minutes and decisions, and all resulting actions, e.g., disciplinary actions imposed and/or changes made to the student's Section 504 Plan and/or IEP.

8. The District (including the School) will maintain such documentation of the above commitments as is needed to demonstrate that it has fulfilled those commitments.

The District understands that OCR will not close the monitoring of this Agreement until it determines that the District has fulfilled all of its terms and is in compliance with Section 504 and Title II with respect to the issues addressed in this Agreement. During the monitoring of this Agreement, OCR may visit the District, interview staff and students, and request such additional reports and 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 with respect to the issues addressed in this Agreement. OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement, but before initiating such proceedings, OCR will give the District written notice of the alleged breach and a minimum of sixty (60) calendar days within which to cure it.

**APPROVAL**

By: \_\_\_\_\_/S/\_\_\_\_\_  
Richard Rosenberger, Superintendent  
Anderson School District 2

Date 2/18/15\_\_\_\_\_