

RESOLUTION AGREEMENT

Alexander County Schools

Complaint No. 11-14-1263

Alexander County Schools (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve the above-referenced complaint.

GENERAL PROVISIONS

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 shall comply with the requirements of Section 504 and Title II.

TRAINING

4. The District will develop (directly or through collaboration with a third party with expertise in the subject matter) training materials for staff regarding the handling of situations that involve students who may be a harm to others. These materials will ensure that the handling of such situations is consistent with the requirements of Section 504 and Title II.

Reporting Requirements

- a. By January 9, 2015, the District will submit to OCR for review and approval (1) the qualifications of the individual who will provide the training; and (2) the proposed training agenda and training materials.
- b. Within six weeks of OCR's approval of the training materials, the District will provide training to administrators and staff members at the School who are involved in assessing students who may be a harm to others regarding its policies, procedures, and practices relating to the use of such risk assessments to ensure that the assessments are carried out in a manner consistent with Section 504 and Title II. The District will incorporate the training into its annual District-wide in-service training and provide the training to all newly-hired District employees who will be involved in the risk assessment process.
- c. Within eight weeks of OCR's approval of the training materials, the District will provide OCR with documentation demonstrating that the training was provided, and will provide a sign-in sheet documenting that its administrators and staff members attended the training.

EVALUATIONS AND MANIFESTATION DETERMINATIONS

5. By March 2, 2015, XXXX (the School) will evaluate the Student to determine if he is a student with a disability under the IDEA or Section 504 and, in doing so, it will: (a) draw upon a variety of sources; (b) document and carefully consider the medical and other information obtained from all sources; (c) ensure that any Individualized Education Program (IEP) or Section 504 Plan (Plan) is developed 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

By March 16, 2015, 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 copies of all meeting notes and minutes, decisions, all of the evidence considered, and the due process notice provided to the Complainant.

6. If the School determines that the Student is in need of an IEP and/or Plan, it will:
 - a. Promptly develop and implement such an IEP and/or Plan and provide the Student with a free and appropriate public education (FAPE) that will meet the individual educational needs of the Student as adequately as it meets the needs of students without disabilities.
 - b. By March 16, 2015, evaluate the Student to determine whether XXXX was a manifestation of the Student's disability, if any, and/or the medication he was taking to treat a disability. This determination will be made by a group of individuals such as – or the same as -- the one described in Provision 5. The School will fully document the determination it makes and notify the Complainant of her due process rights.
 - c. If the School determines that the conduct that gave rise to the above-referenced suspension was a manifestation of the Student's disability and/or medication, it will, within two weeks of that determination, expunge the suspension from the Student's disciplinary and all other records.
 - d. Arrange a meeting between the Complainant and a group of individuals such as – or the same as -- the one described in Provision 5, at which meeting the participants will consider all of the relevant evidence and determine whether, as a result of (i) the failure to develop and implement an IEP and/or Plan during the 2013-2014 and/or 2014-2015 school year, and/or (ii) the suspension, the Student is in need of compensatory education services (including the taking of tests and submission of assignments) and, if so, develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond June 10, 2015. The District will provide the Complainant with notice of the relevant procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements

If the School determines that the Student is in need of an IEP and/or Plan, the District will provide OCR with a narrative description of and all documentation relating to its efforts to fulfill the commitments in Provision 6 and all resulting actions taken, including the following.

- a. By March 31, 2015, with respect to Provisions 6a and 6b, copies of all meeting notes and minutes, all of the evidence considered, all decisions, and all resulting IEPs and/or Plans. 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.
 - b. By March 31, 2015, with respect to Provision 6c the District will, if the School determines that the conduct that gave rise to the above-referenced suspension was a manifestation of the Student's disability and/or medication, it will provide evidence indicating that it has expunged the suspension from the Student's disciplinary and all other Student records.
 - c. By March 31, 2015, with respect to Provision 6d the District will submit to OCR a copies of all meeting notes and minutes or similar documentation from the referenced meeting, explanations for the decisions made, a description of and schedule for providing compensatory and/or remedial services (if any) to the Student, and a copy of the notice provided to the Complainant of her due process rights. 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 June 30, 2015, documentation of the dates, times and locations that compensatory and/or remedial services were provided to the Student, a description of what was provided, and the names of the service providers.
7. The School will promptly identify and conduct an evaluation of every School student who, because of a psychological disability, needs or is believed to need special education or related aids or services or a change in such aids or services and, if it determines that an IEP and/or Plan or change in an IEP and/or Plan is needed, it will promptly develop and implement such an IEP and/or Plan or amend the IEP and/or Plan and provide the Student with a FAPE.

Reporting Requirements

By July 1, 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 names of any School student for whom, during the current school year, the School received information and/or documentation indicating that the student may have a psychological disability, the School's response to that information and/or documentation, and copies of all meeting notes and minutes, decisions, all of the evidence considered, and all resulting IEPs and/or Plans.

8. The School will, prior to imposing disciplinary action against any School student with a psychological disability 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:

- a. It will conduct a reevaluation of the student to properly determine whether the misconduct for which disciplinary action is proposed was a manifestation of the student's psychological disability, which determination will be made by a group of individuals such as – or the same as -- the one described in Provision 5.
- b. If the group determines that the misconduct was not a manifestation of the psychological disability, the student may be disciplined in the same manner as similarly situated students without disabilities are disciplined.
- c. If the group determines that the misconduct was a manifestation of the psychological disability, the student will not be disciplined, 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 July 1, 2015, the District will provide OCR with a narrative description of and all documentation relating to its efforts to fulfill the commitments in Provision 8, including the names (or unique identifiers) of any School students with psychological disabilities against whom disciplinary was considered or proposed that would have constituted a significant change in placement of the student, and copies of all meeting notes and minutes, decisions, all of the evidence considered, and all resulting actions, e.g., disciplinary actions imposed and/or changes made to the student's IEP and/or Plan.

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

REIMBURSEMENT

10. The District will reimburse the Complainant for the amount of tuition paid for the Student's online courses XXXX.

Reporting Requirements

By April 1, 2015, the District will provide documentation that it contacted the Complainant to learn of the Student's tuition costs and provided the Complainant reimbursement for the Student's tuition.

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/_____
Jennifer Hefner, Superintendent
Alexander County Schools

12/10/2014
Date