

RESOLUTION AGREEMENT
Guilford County Schools
OCR Case No. 11-15-1038

Guilford County Schools (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-15-1038. This Agreement does not constitute an admission by the District of a 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.

1. The District shall revise Policy JI and/or Policy JI-P (Student Participation in Interscholastic Athletics) to state that the District may grant exceptions to the local requirements that students meet the District’s promotion standards and earn a minimum GPA to be eligible to participate in interscholastic athletics, and to specify how to request an exception to these requirements. The parties acknowledge that in the Guilford County Schools, for the purposes of this Agreement, at the high school level, the “Athletic Program” consists of participation in the North Carolina High School Athletic Association sports for both varsity and junior varsity, using the rules of eligibility outlined by the NCHSAA, as supplemented and modified by GCS, including particularly the Guilford County Board of Education policy and principle that participation in athletics should support students’ attainment of high academic achievement and should be contingent on student successes in school as measured by grade point average, attendance, and conduct. In appropriate circumstances, academic and attendance requirements may be waived where appropriate considering the individual circumstances of each student athlete.

2. The District shall develop internal procedures for considering disability-based requests for exceptions to the local requirements that students meet the District’s promotion standards, earn a minimum GPA, and meet attendance requirements to be eligible to participate in interscholastic athletics. The procedures shall be consistent with the requirements of OCR’s January 25, 2013 Dear Colleague Letter regarding athletic participation for students with disabilities. Specifically, the procedures shall include the following:
 - a. When a student requests an exception based on the student’s disability, the District will engage in an individualized inquiry to determine if the requested exception is a reasonable modification of the District’s athletic eligibility requirements. Specifically, if the District determines that a requested exception is necessary to allow the student to participate and would not fundamentally alter the nature of the District’s Athletic Program, the District must grant the exception. If the District determines that a requested exception would constitute a fundamental alteration of its Athletic Program, the District is not required to grant the exception.
 - b. In its individualized analysis of whether a requested exception would constitute a fundamental alteration of its Athletic Program, the District should consider factors such as the direct relationship between the student’s specific disability and the

student's failure to meet the requirement at issue, the extent to which the failure to meet the academic and attendance standards was within the control of the student, and whether the District has implemented the student's Individualized Education Program (IEP) or Section 504 Plan and otherwise provided the student a free appropriate public education (FAPE). If the District determines that the student's disability directly caused the student to fail to meet the requirement or the District failed to provide FAPE to the student, the District shall take this into account in its assessment.

- c. If a disability-based request for an exception to a requirement is denied, the District must provide a written explanation of the reason(s) for denial, including an explanation of why it determined the requested exception would be a fundamental alteration of its athletic program, to the parent or student.

Reporting requirements for items 1 and 2:

Within 30 days of the date of this Agreement, the District shall submit drafts of the revisions referenced in item 1 and the internal procedures referenced in item 2 to OCR for OCR's review and approval. OCR will respond in a timely manner so as to facilitate inclusion of the policy changes prior to the beginning of the 2015-16 school year to the extent practical. After OCR notifies the District that it approves the draft policy revisions referenced in item 1, the District shall submit the revisions to the Governance Committee of the Guilford County Board of Education at the next regularly scheduled meeting. After the Governance Committee has finalized its work, the revised policy shall be submitted to the full Board of Education for two readings as required by Board policy. The District shall keep OCR apprised of the Board's review and approval process and shall explain the reasons for any delays. The District shall notify OCR when the revised policy referenced in item 1 takes effect.

3. Within 15 school days after the revised policy referenced in Item 1 takes effect or OCR approves the internal procedures referenced in item 2, whichever is later, the District shall issue a memorandum to the District athletic director and all middle and high school principals, athletic directors, and Exceptional Children program coordinators informing them of the revised policy and internal procedures. The memorandum shall include a knowledgeable person to contact if staff have questions about implementing the revised policy or internal procedures.

Reporting requirement for item 3:

The District shall submit a copy of the memorandum to OCR and verify that it was disseminated to the required individuals.

4. If the student who is the subject of this complaint (the Student) wishes to participate in interscholastic athletics while enrolled in District schools in the future and requests an exception to state or District-level academic or attendance requirements for athletic participation based on his disability, the District shall 1) apply to the North Carolina High School Athletic Association (NCHSAA) for a hardship waiver of state-level requirements, and 2) consider whether to grant an exception to District-level requirements using the internal procedures referenced in item 2 above.

Reporting requirement for item 4:

If the Student or his parent requests an exception during the first semester of the 2015-2016 school year based on the Student's disability, within 15 school days of the request the District shall provide documentation to OCR for OCR's review and approval demonstrating that it 1) applied to the NCHSAA for a hardship waiver of any relevant state-level requirements and/or 2) followed the procedures referenced in item 2 in considering whether to grant an exception to any relevant District-level requirements.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. Part 104, and Title II, at 28 C.F.R. Part 35, which were at issue in this case.

The District understands that by signing this Agreement, it agrees to provide data and other 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 the regulations implementing Section 504, at 34 C.F.R. Part 104, and Title II, at 28 C.F.R. Part 35, 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 this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

By: _____ /S/ _____ Date: _____

_____ 8/4/15 _____

Superintendent or designee