

**Resolution Agreement**  
**Wake County Public School System**  
**OCR Complaint No. 11-15-1262**

Wake County Public School System (the District) agrees to fully implement this Resolution Agreement (“Agreement”) to resolve Office for Civil Rights (OCR) Complaint No. 11-15-1262. 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.

**STUDENT SPECIFIC REMEDIES**

1. By January 30, 2017, after providing proper written notice to the Student’s parent/guardian, the District will convene a group of persons knowledgeable about the Student, including the parent/guardian (if the parent/guardian responds to the invitation), with the purpose of developing a plan for providing compensatory and/or remedial services to the Student, including an assessment of the need for compensatory speech and/or occupational therapy services related to (i) the Student being restrained in XXXX and (ii) the period between XXXX, during which the Student’s IEP, BIP, and FBA were not re-evaluated and the Student was in attendance at school. The group will develop a plan for providing timely compensatory and/or remedial services through District instructors, at District school facilities, with a completion date not to extend beyond July 1, 2017. The District will provide the Student’s parent/guardian written notice of the group’s determination, including the schedule for providing compensatory and/or remedial services and notice of the procedural safeguards, including the right to challenge the group’s determination through an impartial due process hearing.

**Reporting Requirements:**

- a. Within two weeks of the meeting described above, the District will submit the following to OCR for review and approval: (i) a copy of meeting minutes or similar documentation, including an explanation for decisions made; (ii) a description of and schedule for providing compensatory and/or remedial services (if any) to the Student; and (iii) a notice of procedural safeguards, including the right to challenge the group’s determination through an impartial due process hearing. OCR will review the documentation submitted to ensure that the School 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. Upon approval from OCR, the District shall provide the Student’s parent/guardian written notice of the group’s determination, including the schedule for providing compensatory and/or remedial services and notice of procedural safeguards.
- b. If the Complainant either (a) refuses the District’s offer of compensatory and/or remedial services or (b) fails to respond to the District’s offer of compensatory and/or remedial services within one week of notice, then the District shall have no further responsibilities under this Section.

- c. If the Complainant accepts the District's offer of compensatory and/or remedial services, the District will notify OCR. Within two weeks of notification that the Complainant has accepted the District's offer, the District will provide to OCR a proposed schedule for providing the services described above. The schedule shall provide for completion of the services described above by July 1, 2017.
  - d. If the Complainant accepts the District's offer of compensatory and/or remedial services, within 10 days of the completion of the compensatory and/or remedial services being provided in the District, the District will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).
2. If the Student re-enrolls in the District during the 2016-2017 school year, the Student's parents will notify the Senior Director of Policy, WCPSS Special Education Services, at (919) 694-0519, immediately upon enrollment. The District will convene a Section 504 or IEP team meeting within two (2) weeks of this notice of the Student's enrollment for the purpose of re-evaluating the Student and, if appropriate, completing a new IEP, a Functional Behavioral Assessment (FBA) of the Student consistent with the requirements of 34 C.F.R. 104.35(c), and a Behavior Intervention Plan (BIP). The District must review and carefully consider all relevant testing and other evaluative data to complete an IEP, FBA, and develop an appropriate BIP for the Student; document its process and determination, ensuring that the determination conforms with Section 504's requirements of 34 C.F.R. § 104.35(c) to draw information from a variety of sources; have the decision made by a group of people knowledgeable about the Student, the evaluation data, and the placement options; and ensure that the information is documented and carefully considered.

**Reporting Requirement:** Within 15 calendar days of completing the re-evaluation and any subsequent IEP, FBA, and BIP for the Student, consistent with the requirements of 104.35(c) of the regulation, the District will submit for OCR's review and approval the notes or minutes of the evaluation team meetings, the evaluative data reviewed, and a copy of any completed IEP, FBA, and BIP developed.

### **DISTRICT-WIDE REMEDIES**

3. The District will revise its rules and procedures on physical restraint and seclusion to ensure compliance with the requirements of Section 504, and notify students, parents/guardians, and employees that changes were made.

### **Reporting Requirements:**

- a. By January 30, 2017, the District will submit for OCR's review and approval a copy of the revised rules and procedures prepared for Provision 3. Within 90 days of OCR's approval of the proposed revisions and notification, the District will submit documentation confirming that the approved revisions have been

made, and that it has notified employees who have responsibility for supervising students by methods reasonably calculated to reach those employees, such as posting the updated rules and procedures on the District web site and posting a notice of the change in school offices.

- b. By June 30, 2017, the District will present the revised rules and procedures at a district principals' meeting. At this meeting, the District will instruct principals to answer and/or direct staff questions about the rules and procedures to the District office.

Within 10 days of OCR's approval, the District will disseminate a memorandum to all staff explaining the changes made to the restraint and seclusion rules and procedures and directing staff to raise any questions with their school and/or district contact person.

- c. By April 30, 2017, the District will provide documentation of notification to parents/guardians of students with disabilities of the changes described in Provision 3 by methods reasonably calculated to reach those parents/guardians, such as posting the updated rules and procedures on District web sites regarding Exceptional Children and Section 504 and notifying the Wake County Special Education Advisory Council.
4. The District will update its current PowerPoint presentation and DVD used for annual training on physical restraint and seclusion to reflect changes in its rules and procedures, if necessary. The District will use any such updated materials during its annual restraint and seclusion training for staff members who have responsibility for supervising students, to ensure that the changes described in Provision 3 are properly implemented.

### **Reporting Requirements**

- a. By June 30, 2017, the District will provide for OCR's review and approval a copy of any modified PowerPoint or DVD materials prepared for Provision 4.
- b. By February 30, 2017, the District will provide for OCR's review and approval a draft of the memorandum to staff. The District will disseminate the memorandum within 10 days of OCR's approval.
- c. Within 60 days of the completion of updates to these materials, the District will submit to OCR confirmation of updates to and distribution of the materials for annual training purposes.

The District understands that OCR will not close 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 and Title II, which were at issue in the complaint.

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 groups of students, and request such additional reports or data as are necessary for OCR to determine that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in the complaint.

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 (24 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.

/S/  
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Superintendent or designee  
Wake County Public School System

11/04/2016  
\_\_\_\_\_  
Date