

**Resolution Agreement**  
**Virginia Beach City Public Schools**  
**OCR Complaint No. 11-15-1289**

Virginia Beach City Public Schools (the Division) agrees to implement this resolution agreement to resolve Office for Civil Rights (OCR) Complaint No. 11-15-1289.

**Action Items:**

1. Within 10 days of the date of this Agreement, the Division shall offer to the Complainant in writing the opportunity to have the Division convene an Individualized Education Program (IEP) meeting in accordance with 34 C.F.R. §§ 300.320-300.328. The Division will ensure compliance with the requirements of 34 C.F.R. § 104.33(b) regarding the provision of special education and related aids and services that are designed to meet individual educational needs of the Student as adequately as the needs of nondisabled students are met by considering and documenting all relevant evaluation data and information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The Division shall consider all medical documentation provided to the Division to date and shall revise the Student's IEP accordingly. The Division will provide the Student's parents with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. §§ 300.322, 300.500-520, and 300.530-537, including their right to challenge such determinations through an impartial due process hearing should they disagree.

**Reporting Requirements:**

- a. By September 15, 2015, the Division will provide OCR with documentation to show that it has completed item number 1 above. The documentation shall include copies of notification of the meeting; meeting notes; the names and titles of the participants and each participant's knowledge of the Student or the Student's disabilities; the information that the Division considered in making a determination; the rationale for the determination; if applicable, a copy of the revised IEP developed for the Student; and documentation that notice of the determination and notice of procedural safeguards was provided to the parents.
2. Within 10 days of the date that this Agreement is signed, the Division will provide evidence that an IEP team considered whether the Student is entitled to compensatory educational services after providing notice to and considering any input provided by the parent/guardian. If the IEP team determines compensatory services are appropriate, the IEP team shall develop a plan for providing compensatory and/or remedial services to the Student for the time period the Student did not receive appropriate regular and/or special education or related services. The IEP team will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond December 18, 2015. The Division will provide the Student's parent/guardian notice of the 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 Division 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.

**Reporting Requirements:**

- a. By September 15, 2015, the Division 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), if applicable.
3. Within 10 days of the date that this Agreement is signed, the Division will provide OCR with a copy of all Section 504 trainings conducted in the 2013-2014 and 2014-2015 school years for OCR's review which shall include the name and credential of the individual(s) who provided the training sessions and documentation of all individuals who attended such training sessions. OCR will review the prior training materials submitted by the Division to determine whether the prior training materials meet the requirements outlined in this provision of the Resolution Agreement and if OCR determines that such materials are not acceptable, OCR will notify the Division that additional training is necessary. In the case where the prior training materials are not determined by OCR to meet the requirements of this provision of the Resolution Agreement, within 60 days of the date that this Agreement is signed, the Division will provide training to Division and School staff who work directly with students, and to the Division/school administrators (including the Section 504 Coordinator) who are responsible for identifying, evaluating, and serving students with disabilities, on the Division's obligation under Section 504 to identify and evaluate all students who need or are believed to need special education and related aids and services, which shall include specific examples and/or topics relating to students with health impairments or medical conditions.

**Reporting Requirements:**

- a. At least 20 days prior to the date of the proposed training (if any), the Division will provide to OCR an outline of the content of the training, including a copy of training materials, and the name and credentials of the individual(s) who will provide the Section 504 training for OCR's review. The Division will not implement the proposed training (if any) prior to OCR's review and approval.
  - b. Within one week after the date of the proposed training (if any), the Division will provide to OCR documentation confirming that the training occurred, including the training agenda, the date on which the training was held, and a list of the individuals (by name and title) present at the training.
4. By December 18, 2015, the Division will review the circumstances, including all health and medical records, of all currently enrolled students at the School with a health plan or medical authorization form to determine whether each student's medical condition provides reason to believe the student might be eligible under Section 504 for special education or related aids and services, consistent with the changes to legal standards made by the ADA Amendments Act of 2008 and the corresponding changes to Section 504. For each instance where there is reason to believe the student may qualify as a person with a disability under Section 504, the Division shall convene a meeting in accordance with 34 C.F.R. § 104.35(c) to evaluate the student.

**Reporting Requirements:**

- a. By January 30, 2016, the Division will provide verification of its review of the circumstances of each student currently enrolled in the School with a health plan or medical authorization form to determine whether each student's medical condition provides reason to believe the student might be eligible under Section 504 for special education or related aids and services, consistent with the changes to legal standards made by the ADA Amendments Act of 2008 and the corresponding changes to Section 504. Where the Division determines that evaluation is not warranted, the Division will provide information explaining and supporting its decision.
  - b. By March 25, 2016, the Division will provide documentation (*e.g.*, copies of forms used in the evaluation process, and any Section 504 plans developed) to OCR for OCR's review and approval to ensure procedural compliance with 34 C.F.R. § 104.35 of the following: (A) that the evaluation was proposed and, if the parent provided written consent, conducted; and (B) the outcome of the evaluation, including copies of any plans developed to meet the student's individual needs.
5. By March 25, 2016, the Division will consider compensatory services for each student it determines eligible under Section 504 (eligible students), in accordance with Action Item 4 above. After providing proper written notice to the eligible students' parent/guardian, the Division will convene a group of persons knowledgeable about the eligible student(s), including the parent/guardian, with the purpose of developing a plan for providing compensatory and/or remedial services to the student(s) for the time period the eligible student(s) did not receive appropriate regular and/or special education or related services from [date] to [date]. The group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond [date]. The Division will provide the eligible students' parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

**Reporting Requirements:**

- a. Within one week of the meeting, the Division will submit to OCR a copy of, meeting minutes or similar documentation from the meeting referenced in Action Item 3 above; including an explanation for decisions made, and a description of and schedule for providing compensatory and/or remedial services (if any) to the student(s) and the notice of due process. OCR will review the documentation submitted to ensure that the Division 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 April 25, 2016, the Division 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).

The Division understands that OCR will not close monitoring of this agreement until OCR determines that the Division 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.

