

RESOLUTION AGREEMENT
Loudoun County Public Schools
OCR Case No. 11-16-1123

Loudoun County Public Schools (the Division) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-16-1123. This Agreement does not constitute an admission by the Division 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.

Action Item A: The Student

1. By June 15, 2018, after providing proper written notice to the Student's parent/guardian, the Division will convene a group of persons knowledgeable about the Student, making all reasonable efforts to include the parent/guardian, with the purpose of determining whether the Student requires compensatory and/or remedial services for the XXXX school year.¹ If the group determines that compensatory and/or remedial services are needed, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond October 1, 2018. The Division will provide the Student's parent/guardian with 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 the meeting minutes or similar documentation from the meeting, including an explanation for decisions made, a description of and schedule for providing compensatory and/or remedial services (if any) to the Student, the notice of procedural safeguards, the written invitation to the Student's parent/guardian, and a list of meeting attendees. 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. Within 10 calendar days after receiving OCR's approval, the Division will provide the Student's parent/guardian with written notice of the outcome of the meeting, including an explanation for decisions made and a description of and schedule for providing compensatory and/or remedial services (if any) to the Student. The Division will provide a copy of this written notice to OCR.

¹ The IEP team will specifically discuss whether the Student requires any compensatory and/or remedial services in connection with a delay in reviewing the Student's behavior intervention plan ("BIP") through an IEP team or BIP meeting from XXXX through XXXX and XXXX through XXXX, and in connection with the Student's special education teacher not providing the entirety of the Student's required special education services in the general education setting during the XXXX school year. In making its determination, the team may consider any remedial measures already taken by the school division.

- c. By October 31, 2018, the Division will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services (if any) were provided, a description of what was provided, and the name(s) of the service provider(s).
2. By August 30, 2018, the Division will ensure that it has developed a written plan or schedule outlining when it will provide the Student's special education services during the 2018-2019 school year. The Division will also ensure that it has developed a plan to track, in writing, implementation of the Student's IEP, particularly documenting the provision of special education and/or related aids and services, as required by the Student's IEP.

Reporting Requirements:

- a. By September 15, 2018, the Division will provide OCR, for review and approval, a written description of the method the School will use to track whether the Student is receiving the services, as required by his IEP.
 - b. After receiving OCR's approval, on January 15, 2019 the Division will provide documentation to OCR to support its implementation of the plan to track the Student's services.
3. The Division will circulate a memorandum to the administrators and special education designee assigned to each school in the Division regarding the obligations of school staff under Section 504 to implement students' IEPs and BIPs (if applicable) with fidelity (including providing the hours of instruction indicated on the IEP), collecting data in accordance with the IEP and BIP, and periodically revising each document based on the needs of the student. The memorandum will also reference the Division's policy prohibiting discrimination based on disability and provide a reminder of the Division's obligation not to discriminate on prohibited bases, including disability. Each special education designee will circulate the memorandum to the instructional staff at each school that are responsible for providing services to students with disabilities.

Reporting Requirements:

- a. By May 30, 2018, the Division will provide for OCR's review and approval a draft of the memorandum.
 - b. Within 10 school days of OCR's approval of the draft memorandum, the Division will issue the memorandum to the parties outlined above. The Division will provide documentation that it has issued the memorandum by July 1, 2018, including providing a copy of the memorandum and an indication of who issued it and who received it.

Action Item B: Training

By September 30, 2018, the Division will develop and provide training to staff implicated by OCR's investigation of the above-referenced complaint regarding the Student². The training, at a minimum, will emphasize the Division's obligations to identify and evaluate students believed to need special education services, and to provide a free appropriate public education (FAPE) to students with disabilities, specifically, by developing and implementing an IEP, Section 504 Plan, or BIP in accordance with the procedural requirements set forth in 34 C.F.R. §104.35(c). The training will also emphasize the Division's obligations to periodically reevaluate a student who has been provided special education and/or related aids and services, including whether there is information suggesting that a student's educational program is not meeting the student's individual needs and whether further evaluation or revisions to the student's IEP, Section 504 Plan, BIP, or placement are necessary, in accordance with the procedural requirements set forth in 34 C.F.R. § 104.35(d).

Reporting Requirements:

- a. By August 1, 2018, the Division will submit for OCR's review and approval the proposed training materials as described in Action Item B above. The Division will also identify the individual(s) who will conduct the training and their qualifications. The Division will identify those individuals to whom it will provide training based on the list in footnote 2.
- b. By October 30, 2018, the Division will provide documentation to OCR demonstrating that training was provided consistent with Action Item B above, including: (a) the name(s) of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; and, (d) copies of any training materials disseminated.

The Division understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the Division understands that during the monitoring of this Agreement, OCR may visit the Division, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Division has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which was at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close this case.

The Division 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 Division written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

² Staff to participate in the training will include members of the Student's IEP team during the XXXX school year who are teachers, special education staff, administrators, and any other personnel responsible for identifying and evaluating students who, because of a disability, need or are believed to need special education and/or related aids and services consistent with the requirements of Section 504 and Title II; and who were implicated by OCR's investigation of the above-referenced complaint regarding the Student, as stated above.

By: _____/s/_____ Date: 05/14/2018

Loudoun County Public Schools