

RESOLUTION AGREEMENT
Norfolk Public Schools
OCR Case No. 11-16-1800

In order to resolve the allegations raised in U.S. Department of Education, Office for Civil Rights (OCR) Case No. 11-16-1800, Norfolk Public Schools (the Division) assures OCR, that pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, it agrees to fully implement this Resolution Agreement (Agreement).

Action Item A:

By August 31, 2017, the Division will develop and provide training to School staff including teachers, nurses, front office staff, case managers, administrators, school social workers, school psychologists, 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. 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 Individualized Education Program (IEP) or Section 504 Plan, in accordance with the procedural requirements set forth in 34 C.F.R. §104.35(c). The training will also emphasize the Division's newly-developed written protocol(s) for XXXX students enrolling in the Division with XXXX Section 504 Plan, Individualized Education Program (IEP), or other plan for providing special education and/or related aids and services to students with disabilities consistent with the requirements of Section 504 and Title II XXXX (as described in Action Item B below).

Reporting Requirements:

- a. Within 45 calendar days, the Division will submit for OCR's review and approval the proposed training materials as described in Action Item A above. The Division will also identify the individual(s) who will conduct the training and their qualifications.
- b. Within 45 calendar days of written notification from OCR of its approval of the training, the Division will provide documentation to OCR demonstrating that training was provided consistent with Action Item A 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.

Action Item B:

By May 31, 2017, the Division will develop written protocol(s) for XXXX students enrolling in the Division XXXX Section 504 Plan, IEP, or other plan XXXX. The protocol will establish a reasonable timeframe for the Division to obtain XXXX special education records, including the Section 504 Plan, IEP, or other plan XXXX and supporting documentation. The protocol will prescribe that upon receiving a student's special education records, the Division will convene a group of persons within a specified timeframe, including persons knowledgeable about the meaning of the evaluation data and knowledgeable about the placement options to determine if a student's Section 504 Plan, IEP, or other plan XXXX is appropriate. The protocol will stipulate that the Division is required to implement the Section 504 Plan, IEP, or other plan XXXX upon a determination that the plan is appropriate. The protocol will further prescribed that if the Division determines that the Section 504 Plan, IEP, or other plan XXXX is inappropriate or if the Division fails to obtain the student's Section 504 Plan, IEP, or other plan for providing special education and/or related aids and services consistent with the requirements of Section 504 and Title II to students with disabilities XXXX, the Division is required to timely evaluate the student consistent with the Section 504 procedures at 34 C.F.R. 104.35 and determine which educational program is appropriate for the student.

Reporting Requirements:

- a. By April 15, 2017, the Division will submit for OCR's review and approval the draft protocol for XXXX students with a Section 504 Plan XXXX described in Action Item B above.
- b. Within 10 school days after receiving approval from OCR, the Division will distribute the protocol to Division administrators and appropriate staff. The Division will submit to OCR documentation that the protocol has been distributed, including a list of administrators and staff who received the protocol.

Action Item C:

Within 15 school days from the date of this agreement, after providing proper written notice to the Student's parent, the Division will convene a group of persons knowledgeable about the Student, making all reasonable efforts to include the Student's parent(s)/guardian(s), with the purpose of developing 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 in accordance with his Section 504 plan, during XXXX. The group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond XXXX. The Division will provide the Student's parent 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 convening the group of knowledgeable persons, 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, and a list of meeting attendees. 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.
- b. Within 10 school days after receiving OCR’s approval, the Division will provide the Student’s parent 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.
- c. By June 30, 2017, and if applicable, 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 the monitoring of this Agreement until OCR determines that the Division has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 and Title II, at 28 C.F.R. Part 35 and 34 C.F.R. Part 110.

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.

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.

By: _____/s/_____
Dr. Melinda J. Boone
Superintendent or Designee
Norfolk Public Schools

Date: _____04/04/2017_____