

RESOLUTION AGREEMENT
Johnston County Public Schools
OCR Case No. 11-17-1056

Johnston County Public Schools (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Case No. 11-17-1056. 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. Evaluation and Placement of the Student.

If, on or before August 27, 2018, XXXX:

- A. The District will provide parents with a Prior Written Notice scheduling a transitional/re-entry IEP meeting, within five (5) calendar days of receipt of this notice.
- B. If possible, the transitional/re-entry IEP meeting will be held prior to the Student returning to school, but in no event later than ten (10) days of the Student's return to school.
- C. To assist the transitional/re-entry IEP team in determining the student's present level of performance and develop an appropriate IEP, at least three (3) calendar days in advance of the meeting, the parents will submit all relevant assessments and records from the student's current school program.
- D. The transitional/re-entry IEP team shall consist of the following individuals: an LEA representative who has knowledge of the district resources and placement options; a parent of the Student; a regular education teacher who could potentially instruct the student upon his return; a special education teacher who could potentially instruct the student upon his return; a school psychologist; and any other individual, at the discretion of the parent or the District, who has knowledge or special expertise regarding the child.
- E. During the transitional/re-entry IEP meeting, the IEP team will:
 - a. Using all available data (including all new data and input provided by the parents for consideration), review and modify the existing IEP, or develop a new IEP, as appropriate;
 - b. Determine whether additional evaluation(s) or assessment(s) are needed to determine a more comprehensive picture of the Student's present level or performance and current needs XXXX; and
 - c. If the team determines that additional evaluation(s) and/or assessments are needed, at this meeting, the District will provide the Students' XXXX with an

opportunity to provide their signed and informed consent for the additional testing and assessment determined to be necessary by the team;

- F. If the parent of the Student provides their signed consent, district staff will conduct the evaluation(s) and/or assessment(s) identified by the team, within 30 calendar days of receipt of the consent, assuming the student is in regular attendance at school during this time or the parent of the Student otherwise makes him available for testing.
- G. The District will provide parents with a Prior Written Notice scheduling a reevaluation IEP Meeting to review the results of the evaluation(s)/assessments(s), scheduling this subsequent IEP meeting within 45 school days of the receipt of the parent's signed consent. At this subsequent IEP meeting, the IEP team shall review the results of the evaluations/assessments, along with all other available information from a variety of other sources, that may include but is not limited to: the District's initial special education evaluation, medical documentation, behavior, strategies and interventions that have been attempted with the Student, teacher input, and parental input. The team will ensure that information obtained from all such sources is documented and carefully considered. The team's process will conform to the procedural safeguards provision in the regulation implementing Section 504 at 34 C.F.R. §104.36.
- H. At the above-mentioned meetings, and at all subsequent IEP meetings, the District will conform to the placement procedures outlined in the regulation implementing Section 504 at 34 C.F.R. §§104.35(c) in determining an educational setting for the Student that accords with the regulation implementing Section 504 at 34 C.F.R. at §104.34. The District will document all academic and nonacademic settings considered by the team, and provide specific reasons in writing for team's decision(s) regarding the appropriate educational setting for the Student.
- I. If the XXXX of the Student fails to notify the District by August 27, 2018 of their intent to XXXX District school, no further actions are required by the District pursuant to this section (Section 1) of the Agreement.

Reporting Requirement:

- A. Within 30 days of the notice from the parent identified in paragraph 1.A above, or by September 28, 2018, if no notice is provided and the student does not XXXX a district school by August 27, 2018, the District will notify OCR either that the notice was received and the student has XXXX, or that the student has XXXX and no notice has been provided.
- B. If notice is provided by August 27, 2018, within 30 days of the two IEP meetings identified above, the District will provide OCR with:
 - 1. Copies of any and all IEPs, FBAs, and BIPs developed;
 - 2. Copies of the results and reports from additional testing and assessment of the Student;

3. Copies of information used in developing any IEPs, FBAs, and BIPs;
4. Meeting minutes or other documentation of the decisions made and reasons therefore;
5. The names and titles of the individuals who participated in the Student's IEP team;
6. Signed confirmation of the parents' receipt of procedural safeguards, including the right to due process.

2. Provision of Training

- A. By April 30, 2018, the District will provide training to all Exceptional Children's and Section 504 case managers, administrators, and regular and special education teachers at the School on the District's legal obligations under Section 504. At a minimum, the training will cover the following topics:
 - i. The requirements under 504 and the IDEA regarding the inclusion of students with disabilities with their non-disabled peers in both academic and non-academic settings, including meals, recess, and extracurricular activities, to the maximum extent appropriate;
 - ii. The legal mandate that the District must ensure that, to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled, and that a child with a disability may receive specialized instruction in a special class, separate school, or other removal from the regular education environment only if the child's IEP team first determines that the education of the student in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily;
 - iii. The requirement to take into consideration the proximity of an alternate setting to the student's home whenever the District places a student in a setting other than the school that the student would attend if nondisabled;
 - iv. The placement procedures outlined in the regulation implementing Section 504 at 34 C.F.R. §104.35(c); and
 - v. The procedural safeguards implemented by the District pursuant to 34 C.F.R. §104.36, including best practices for communicating the information contained therein to parents and guardians of students who, because of disability, need or are believed to need special instruction or related services.

By September 30, 2018, the District will ensure that all participants in the Student's IEP team during the XXXX academic year who remain employees of the District are provided the above training.

Reporting Requirement:

- A. By August 31, 2018, the District will submit for OCR's review and approval training materials that meet the requirements described in Section 2 (A)(i)-(v) above. The District may request that OCR consider training it previously conducted during the XXXX school year to satisfy the requirements of Section 2 for some or all of the required participants.

1. For trainings pertaining to the requirements described in Section 2 (A)(i)-(v) above that have already been held during the XXXX school year, the District will provide (a) the name(s) of the individual(s) who conducted the training(s) and their qualifications; (b) the agenda and handouts from any trainings conducted; and (c) the date(s) the training was conducted.
 2. For trainings not already held during the XXXX school year, the District will (a) identify the individual(s) who will conduct the training(s) and their qualifications and (b) provide the agenda and/or handouts for the proposed training.
 3. OCR will review the materials submitted and determine whether the training(s) comply with OCR's requirements as described in Section 2 (A) and notify the District in a timely manner whether the training meets OCR's requirements.
- B. By October 31, 2018, the District will provide documentation to OCR demonstrating that the required participants received training that meets OCR's requirements as described in Section 2 (A), including a copy of the final training materials, a list of individuals who attended each training and their positions, and sign-in sheets from all sessions of the training(s).

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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 regulation implementing Section 504, at C.F.R. Part 104, and Title II, at 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 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: 03/09/2018
Ashley Radford
Director of Exceptional Children Programs
Johnston County Schools