

RESOLUTION AGREEMENT
Beaufort County Schools
OCR Complaint No. 11-18-1060

Beaufort County Schools (the District) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Complaint No. 11-18-1060. This Agreement does not constitute an admission by the District of a violation of Section 504 of the Rehabilitation Act of 1973 (Section 504) or Title II of the Americans with Disabilities Act of 1990 (Title II) or any other law enforced by OCR.

Re-evaluation

1. By September 30, 2018, after providing proper written notice to the Student's parent/guardian, the District will convene a team of persons who are knowledgeable about the Student, the meaning of evaluation data and information and possible placement options, making all reasonable efforts to include the parent/guardian, with the purpose of meeting to re-evaluate the Student, determine the Student's needs for special education or related aids and services, and determine the Student's placement under Section 504 or the IDEIA. In accordance with all procedural requirements of 34 C.F.R. § 104.35 and the requirement to educate the Student with non-handicapped students to the maximum extent appropriate (34 C.F.R. § 104.34(a)), the District will re-evaluate the Student using validated tests by trained personnel and it will document and carefully consider information from a variety of sources.
2. After the completion of Paragraph 1, the team will develop a plan for providing compensatory and/or remedial services to the Student for the time period from the start of the 2017-2018 school year until the date of the re-evaluation. In compliance with all procedural requirements of 34 C.F.R. § 104.35 including the requirement of utilizing validated tests, the team will carefully consider the impact of not re-evaluating the student at the beginning of the 2017-2018 school year and forecast the academic and behavioral functioning the student would have had if appropriate services were provided at that time. Using this estimation and any other information deemed appropriate by the evaluating team, the District will propose a compensatory education plan reasonably calculated by the team, in accordance with the above-cited procedural requirements, to bring the Student to the estimated levels of academic and behavioral functioning. Any proposed plan for providing compensatory and/or remedial services must have a completion date not to extend beyond August 2019.
3. Per the procedural requirements cited in Paragraph 2, the team shall also consider the need for compensatory and/or remedial services for all classroom instruction time the Student missed due to disciplinary exclusions during the 2017-2018 school year or missed due to the Student being placed on partial day homebound.
4. Upon completion of Paragraphs 1-3, the District 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 Requirement:

Within two (2) weeks of conducting the meetings per Paragraphs 1-3, the District will submit to OCR a copy of the meeting minutes or similar documentation from the meeting, including an explanation for decisions made, all documents utilized to make team decisions, proof that the Complainant received 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 District 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. The District will respond to OCR's concerns, if any, within 15 calendar days after receiving notice of OCR's concerns.

By September 1, 2019, 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).

Functional Behavior Assessment (FBA)

5. By September 30, 2018, in compliance with all procedural requirements of 34 C.F.R. § 104.35, the District will conduct a FBA which should address such issues as the characteristics of the setting and events; removing antecedents that trigger behavior; adding antecedents that maintain appropriate behavior; removing consequences that maintain or escalate dangerous behaviors; adding positive behavioral interventions and supports that maintain appropriate behavior; teaching alternative appropriate behaviors, including self-regulation techniques, and to replace the dangerous behaviors to the extent that these are appropriate for the Student based on the antecedent, behavior, consequences data collected in the functional behavior assessment, and any other factors deemed relevant by the evaluating team. Within thirty (30) days of the completion of the assessment, after providing proper written notice to the Student's parent/guardian, the District will convene a team of persons knowledgeable about the Student, making all reasonable efforts to include the parent/guardian, with the purpose to develop a behavior intervention plan (BIP), which includes determining what additional behavioral interventions, programs, or services are necessary for the provision of FAPE.

Reporting Requirement:

By October 30, 2018, the District will provide OCR a copy of the FBA.

By November 20, 2018, the District will provide OCR a copy of the Student's BIP and the Section 504 team/IEP team notes regarding what additional programs or services are necessary for the provision of FAPE. If the Complainant has not consented to the assessment, the District need not provide the documentation described herein.

Manifestation Determination Review (MDR)

6. By September 30, 2018, after providing proper written notice to the Student, the District will convene a team of persons who are knowledgeable about the Student, the meaning of evaluation data and information and possible placement options. The team will review all relevant data and information regarding the November 2017, December 2017, January

2018, and March 2018 disciplinary incidents and determine whether the conduct that gave rise to each incident was a manifestation of the Student's disability. The team will ensure that information obtained from all sources, including the Student's medical documentation, is documented and carefully considered during the manifestation determination review. If, during the MDR meeting, it is determined that the Student was excluded for conduct that was a manifestation of the Student's disabling condition(s), then within ten (10) school days of the MDR meeting, the District will ensure that the Student's discipline record is expunged of any and all information and discipline actions related to the specific incident. In this case the District will also conduct a re- evaluation, per all procedural requirements of 34 C.F.R. § 104.35 and in the same manner as described in Paragraph 2, as to whether the Student needs compensatory and/or remedial services as a result of the Student's removal from school for each incident.

Reporting Requirements:

Within ten (10) school days of the date that the MDR meeting is conducted, the District will provide OCR with a copy of the notes of the MDR meeting(s), as well as meeting notes and documents used in making the team's decision, proof that procedural safeguards were provided to the Complainant, and the names and titles of each person who participated in the MDR meeting. If the MDR Team determines that the Student was suspended for conduct that was a manifestation of the Student's disability, then the District will also provide OCR with documentation evidencing that the Student's record has been expunged, a copy of any District plan to provide the Student compensatory education and special education services along with meeting notes and all documents utilized by the team in making the compensatory education decision. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

Compensatory Education

7. The District will provide the Complainant written notice of the District's proposed timetable and plan to provide the Student compensatory educational services as determined by the team pursuant to Paragraphs 1-3. Contingent upon the Complainant's acceptance of the District's offer, the District will begin providing the services to the Student within fifteen (15) school days from the date of its receipt of the Complainant's acceptance of the District's offer, or at a later date, if agreed upon by the Complainant. The compensatory education services shall be delivered in a manner so as not to hinder the delivery of any services that may be required by the Student's current educational program and have a completion date not to extend beyond August 2019.

Reporting Requirements:

Within ten (10) school days of completion of compensatory services, the District will provide documentation to OCR of the dates, times, and locations that any compensatory and/or remedial services were provided, and the name(s) of the service provider(s).

Training

8. By December 1, 2018, the District will provide administrators, teachers, and any staff who is responsible for implementing Section 504 at XXXXX and XXXXX training on the Section 504 evaluations and reevaluations, manifestation determination reviews, FBAs and BIPs, and FAPE requirements of Section 504. The training will emphasize the District’s obligations under Section 504 the requirement to re-evaluate students prior to a significant change in placement (e.g., referral to alternative school and ten or more days of out of school suspension), Section 504 requirements concerning educating students with non-disabled peers that is relevant to placing students in homebound instruction or referring students to alternative schools, the importance of conducting appropriate behavioral assessments prior to developing a BIP, the development of a BIP, and the use of response-to-intervention and multi-tiered systems of support in the context of the District’s child find requirements.

9. By September 15, 2018, the District will provide administrators, teachers, and any staff who is responsible for implementing the Student’s IEP at XXXXX on the Student’s disability, i.e., serious emotional disability and attention deficit hyperactivity disorder (ADHD), and on the Student’s IEP and BIP.

Reporting Requirements:

The District will submit the training schedule and materials to OCR by September 1, 2018. Within thirty (30) calendar days of OCR’s review and approval of the District’s training schedule and timeline, the District will finalize its training schedule and materials and will commence the training.

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 the Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, 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. Upon the District’s satisfaction of the commitments made under this Agreement, OCR will 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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

By: _____
Mark Doane
Interim Superintendent

Date: 8-16-18