

RESOLUTION AGREEMENT
Richmond City Public Schools
OCR Complaint No. 11-18-1382

Richmond City Public Schools (the Division) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Complaint No. 11-18-1382. This Agreement does not constitute an admission by the Division 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.

Action Item A: Memoranda

1. The Division will develop and issue memoranda for relevant XXXXX (School) staff regarding the following two issues. The Division may develop one comprehensive memorandum or two individual memoranda:
 - a. Evaluation and Assessment Consent
 - i. The Division's obligation to timely conduct an evaluation(s)/assessment(s) after a parent/guardian provides written consent.
 - ii. School staff will create and maintain a record of when a consent form is provided to a parent/guardian and how and when it was provided (i.e., via email, in person at a meeting, via the student, etc.).
 - iii. School staff will follow-up with the parent/guardian if written consent has not been received within ten (10) calendar days. If the communication is made in writing, staff will maintain a record of the communication. If the communication is made over the telephone or in person, School staff will make a note of the communication which will become a part of the student's file.
 - iv. If a parent/guardian does not consent to all evaluation(s)/assessment(s) offered, the parent/guardian can indicate on the consent form which of the offered evaluation(s)/assessment(s) he/she consents to by initialing next to those to which consent is being given and writing "I am only consenting to the parts of the document by which I have put my initials" and signing the statement. This will be accepted by the Division and will not be considered an "altered" consent form, as discussed below.
 - v. Nothing in this section requires the Division to accept consent forms, altered by the parent/guardian, and/or the parent/guardian's representative, prior to signing the document. If a parent/guardian presents to the Division an altered consent form, the Division will consider whether to reconvene a group of persons knowledgeable about the student, making all reasonable efforts to include the parent/guardian, to determine whether the additional evaluation(s)/assessment(s) requested by the parent/guardian are required for the student.

b. Scheduling of Section 504 or Individualized Program (IEP) Meetings

- i. School staff will respond to requests from parents/guardians for Section 504 or IEP meetings in writing within seven (7) calendar days of receiving the request. A meeting notice scheduling the meeting will comply with this requirement; and,
- ii. School staff will schedule a date for a Section 504 or IEP meeting within a reasonable time after receiving the request, and if possible, within fourteen (14) calendar days.

Reporting Requirements:

- a. Within forty-five (45) calendar days after the date of this Agreement, the Division will provide OCR with a copy of the memorandum(a) for review and approval.
- b. Within seven (7) calendar days of OCR's final approval of the memorandum(a), the Division will circulate the memorandum(a) to all School administrators, case manager(s), other individuals who may distribute and receive consent forms, and other individuals who may be responsible for scheduling Section 504 or IEP meetings. The Division will provide OCR with documentation reflecting that the memorandum(a) was distributed.

Action Item B: Functional Behavior Assessment

1. Within thirty (30) calendar days of the date of this Agreement, in compliance with all procedural requirements of the Section 504 regulation, 34 C.F.R. § 104.35, the Division will conduct a Functional Behavior Assessment (FBA) XXXXX The FBA should be conducted in compliance with federal and Virginia law and be conducted using practices and procedures by those considered experts in the field.
2. Within thirty (30) calendar days of the completion of the assessment, after providing proper written notice to the Complainant/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 to review the FBA. If the group determines that the Student requires a behavior intervention plan (BIP), the group will develop a BIP, considering what additional behavioral interventions, programs, or services are necessary for the provision of a free appropriate public education (FAPE) to the Student.

Reporting Requirements:

- a. Within seven (7) calendar days of completing the FBA, the Division will provide OCR a copy of the FBA.
- b. Within seven (7) calendar days of the meeting of the group of knowledgeable persons, the Division will provide to OCR a copy of the group's determination, including 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 appropriate.

Action Item C: Disability-Based Harassment Training

1. The Division will provide training(s) to School staff on the following:
 - a. In-depth guidance to increase awareness of what constitutes disability-based harassment/bullying between students or involving a student victim;
 - b. When School staff know or should know of harassing/bullying conduct based on a student's disability, it must take immediate and appropriate action to investigate or otherwise determine what occurred. If the School's investigation reveals that harassment/bullying based on disability created a hostile environment – i.e., the conduct was sufficiently serious to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by the school – the School must take prompt and effective steps reasonably calculated to end the harassment/bullying, eliminate the hostile environment, prevent it from recurring, and, as appropriate, remedy its effects.
 - c. The School's obligation to address any FAPE-related concerns related to the harassment/bullying of students with disabilities, regardless of whether the harassment/bullying was based on disability or some other basis.

Reporting Requirements:

- a. Within sixty (60) calendar days of the date of this Agreement, the Division will provide to OCR an outline of the content of the training(s), including a copy of the training materials, and the name and credentials of the individual(s) who will provide the training(s) for OCR's review and approval.
- b. Within ten (10) calendar days after the date of the training(s), the Division will provide to OCR documentation confirming that the training(s) occurred, the date on which the training(s) was held, and a list of the individuals (by name and title) present at the training(s).

Action Item D: Review of Complaints/Reports of Incidents of Disability-Based or Other Harassment

1. Within sixty (60) calendar days of the date of this agreement, School administrators will review and assess (the Assessment) incidents of which they were aware and that may have constituted harassing/bullying conduct directed toward the Student during the 2017-2018 school year, including the School's responses to those incidents, to determine if the Student was subjected to bullying and/or harassment of any kind. The Division will review at a minimum: XXXXX any other incident the Division was aware of or addressed during the 2017-2018 school year. The Division will provide OCR with

documentation of the Assessment, including a brief description of each incident reviewed, for OCR’s review and approval.

Reporting Requirement: Within seven (7) calendar days of completing the Assessment, the Division will provide to OCR, for its review and approval, documentation of the Assessment, including whether the Division concluded that the Student was subjected to bullying and/or harassment of any kind.

2. Within thirty (30) calendar days of receiving OCR’s approval, and if the School determines that the Student was subjected to bullying and/or harassment of any kind, the School will provide proper written notice to the Complainant/the Student’s parent/guardian and thereafter will convene a group of persons knowledgeable about the Student, making all reasonable efforts to include the parent/guardian, with the purpose to determine whether, as a result of the effects of the bullying and/or harassment, the Student was denied a FAPE, and whether any compensatory services are required. If the group determines that the Student requires such services, the group will develop a plan for providing timely compensatory and/or remedial services in the Student’s current educational setting¹ with a completion date not to extend beyond the end of the 2018-2019 school year. 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. If a meeting as discussed above is required, within seven (7) calendar days 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 ten (10) calendar days after receiving OCR’s approval that it met its procedural requirements, 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.
- c. By July 1, 2019, 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).

¹ Again, the Student is not enrolled at the School for the current 2018-2019 school year.

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

By: /s/ Date: 12-12-2018
Jason Kamras
Superintendent (or Designee)
Richmond City Public Schools