

RESOLUTION AGREEMENT
Portsmouth Public Schools
OCR Complaint No. 11-18-1495

Portsmouth Public Schools (the Division) agrees to fully implement this Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Complaint No. 11-18-1495. 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.

1. By February 1, 2019, 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 Parent, with the purpose of determining whether the Student requires compensatory and/or remedial services for the time period between the beginning of the 2018-19 school year and the date the Division began implementing the Student's IEP. 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 the end of the 2018-19 school year. The Division will provide the Parent with notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing. If the Division encounters difficulty convening this meeting by February 1, 2019 due to school closures or other extenuating circumstances, the Division will convene the meeting by February 15, 2019.

Reporting Requirements:

- a. Within 10 school days following 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, 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 school days after receiving OCR's approval of the meeting documentation as described in provision (a), the Division will provide the Complainant 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, 2019, the Division will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services (if any) were made available, a description of what was provided, and the name(s) of the service provider(s).

2. The Division will issue a memorandum to the administrators and instructional staff of XXXXX School (“School”), all school-based Section 504 Coordinators in the Division, all school-based Special Education Administrators in the Division, all school-based guidance counselors, all Special Education Supervisors in the Division, the Coordinator of Student Services, the Coordinator of Health Services, and the Coordinator of Special Education and Related Services. The memorandum will: (1) remind staff of the Division’s obligation under Section 504 to identify and evaluate students who need or are believed to need special education and/or related aids and services; (2) include a statement that Section 504 meetings can be held during the summer months and may need to be held during the summer months to ensure the timely initiation and completion of evaluations or to ensure the provision of a free and appropriate public education to a Student; (3) include a statement that under Section 504, students with disabilities are entitled to a free and appropriate public education; and (4) include a statement that a Section 504 plan must include the appropriate supports or services required to meet a student’s individual educational needs as adequately as the needs of non-disabled students are met.

Reporting Requirements:

- a. By February 1, 2019, the Division will provide a copy of its draft memorandum to OCR for OCR’s review and approval.
 - b. The Division will disseminate the memorandum to relevant staff within 10 school days of receiving OCR’s approval and provide verification to OCR.
3. The Division will provide training to the administrators and instructional staff of XXXXX School (“School”), all school-based Section 504 Coordinators in the Division, all school-based Special Education Administrators in the Division, all Special Education Supervisors in the Division, the Coordinator of Student Services, and the Coordinator of Health Services, and the Coordinator of Special Education and Related Services on the requirements of Section 504 and Title II. The training will: (1) review the points addressed in the memorandum issued pursuant to Section 2 above; (2) emphasize the Division’s obligation under Section 504 to identify and conduct an evaluation or re-evaluation of any student who, because of a disability, needs or is believed to need special education and/or related aids and services; (3) discuss the identification, evaluation, and placement of students with disabilities who are hospitalized or otherwise out of school due to long-term medical conditions; (4) discuss the importance of ensuring that such students be able to return to school with appropriate services and accommodations in place in a timely manner; (5) explain the Division’s obligations under Section 504 and the IDEA to educate students with disabilities in the least restrictive environment and that students should only be placed on home-based instruction if they cannot be appropriately educated in a less restrictive environment with services and accommodations in place; and (6) explain that a homebound placement is only appropriate after sufficient certification by a medical provider that a student is confined to his or her home for medical or psychological reasons.

Reporting Requirements:

- a. By March 1, 2019, the Division will provide OCR with a copy of its proposed training materials and the name(s) and position title(s) of the individuals who will conduct the training.
- b. Within 60 school days of OCR's approval of the training materials, the Division will conduct the training and provide verification to OCR, including sign-in sheets that identify the names, position titles, and schools of the individuals who received the training.

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 and obligations 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 proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the Division written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

By: _____
Superintendent or Designee

Date: January 22, 2019