

RESOLUTION AGREEMENT
Loudoun County Public Schools
OCR Complaint No. 11-19-1451

Loudoun County Public Schools (the Division) agrees to fully implement this Resolution Agreement (the Agreement) to resolve the allegation investigated in Office for Civil Rights (OCR) Complaint No. 11-19-1451. 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.

Action Item A: Examination of the Student's Relevant Records for 2018-2019 and 2019-2020 School years

By October 1, 2020, the Division shall provide the Complainant an opportunity to examine all of the Student's speech language records, including all speech language checklists and language samples, as required by the Student's Individualized Education Programs (IEPs), that are maintained by the Division for the 2018-2019 and 2019-2020 school years. The Division will coordinate a mutually agreeable date and time with the Complainant for the examination. After the Complainant completes the examination of the Student's records, the Complainant may request the status of any record that the Complainant believes is missing from the Student's educational records. If the record(s) identified by the Complainant is not in the possession of or has not been maintained by the Division, the Division will inform the Complainant which specific records are not available, in writing. As part of monitoring the Agreement, OCR may also conduct an onsite visit to the Division to examine the Student's records.

Reporting Requirements:

1. By September 1, 2020, the Division shall coordinate with the Complainant to schedule a date and time to examine the Student's speech language records, prior to October 1, 2020, as described above.
2. By October 30, 2020, the Division shall provide OCR with documentation of the following:
 - a. The scheduling of the Complainant's examination of the Student's records;
 - b. Confirmation that the Complainant was able to examine the Student's records on the agreed-upon date; and
 - c. For any records that were identified by the Complainant as missing from the Student's records during the examination, the Division shall provide OCR with a written explanation detailing: (i) the nature of/description of the records and relevant dates, if applicable; (ii) whether the records exist; and (iii) if the records exist, a statement of why the records were not made available to the Complainant and when the records will be available for examination.

Action Item B: Compensatory Services for the Student

By October 15, 2020, after providing proper written notice to the Complainant, the Division will convene an IEP meeting for the Student to determine if the Student was denied a free appropriate public education (FAPE) during the 2018-2019 and 2019-2020 school years. During the meeting, the IEP team will consider whether the Complainant's inability to examine the Student's speech-language checklists and monthly language samples during that timeframe impacted her opportunity to meaningfully participate in any actions regarding the identification, evaluation, or educational placement of the Student. If the IEP team determines that the Student was denied a FAPE, then the IEP team shall consider whether the Student requires any compensatory services, to be provided by the end of the 2020-2021 school year.

Reporting Requirements:

1. Within fourteen (14) school days of the IEP meeting for the Student, 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, and a list of meeting attendees. The Division will also submit to OCR a copy of the written invitation to the Complainant and a copy of the notice of the outcome of the meeting that was provided to the Complainant. OCR will review the documentation submitted to ensure that the Division has 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.
2. If applicable, by July 15, 2021, the Division will provide documentation to OCR of the following: (a) the dates, times, and locations that compensatory and/or remedial services were provided to the Student; (b) a description of what was provided; and (c) the name(s) of the service provider(s).

Action Item C: Examination of the Student's Relevant Records for the 2020-2021 School Year

During the 2020-2021 school year, the Division will provide the Complainant with an opportunity to examine the Student's relevant records, as required by the regulation implementing Section 504, at 34 C.F.R. § 104.36. The Complainant must submit requests to examine the Student's relevant records, in writing, to the Special Education Dean of the school to which the Student is enrolled for the 2020-2021 school year. Upon receipt of a written request from the Complainant, the Division will make the Student's records available to the Complainant without unnecessary delay, but no more than forty-five (45) calendar days after the written request is received. The Student's records will also be made available for the Complainant's examination prior to any IEP team meeting held during the 2020-2021 school year.

Reporting Requirement:

By January 15, 2021, and again by July 15, 2021, the Division will provide OCR with documentation of any and all written requests made by the Complainant to the Special Education Dean for the purpose of examining the Student's relevant records during the 2020-2021 school year, including: (a) the date the request was made; (b) a copy of or a description of the request; (c) the date the Division complied with the request; and (d) any and all written correspondence between the Complainant and the Special Education Dean regarding such requests.

Action Item D: Training

By September 30, 2020, the Division will provide training¹ regarding the right of parents/guardians of a student to examine that student's relevant records, as required by the regulation implementing Section 504, at 34 C.F.R. § 104.36, and the Division's policies, procedures, and practices pertaining to the same. The Division will provide the training to specific individuals at the Division and the XXXXX (the School), who were involved in the instant OCR complaint and who OCR previously identified to the Division as required recipients of the training.²

Reporting Requirement:

By October 15, 2020, the Division will provide OCR with documentation confirming completion of the training, as required by Action Item D, including: (a) the name of the individual(s) who conducted the training and their qualifications; (b) the date(s) of the training session(s); (c) all training materials; and (d) a sign-in sheet or other documentation of a list of the names, signatures, and position titles of the Division personnel who participated in the training session.

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 complaint.

¹ The Division may provide an in-person, video, virtual, or other training; however, the Division will ensure that the format used provides participants with an opportunity to ask questions or request clarification of the appropriate Division personnel on the material presented.

² To the extent that the Division may have already provided training to the specific individuals identified above after the end of the 2020-2021 school year, such that it was provided in accordance with Action Item D, the Division may submit such documentation to OCR for consideration during the course of OCR's monitoring of the Agreement.

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: _____/s/_____ Date: _____8/19/2020_____

XXXXX
Assistant Director of Special Education
Loudoun County Public Schools