

RESOLUTION AGREEMENT

Fairfax County Public Schools

OCR Case No. 11-23-1168

Fairfax County Public School (the Division) agrees to fully implement this Resolution Agreement to resolve the allegation investigated in Office for Civil Rights (OCR) Case No. 11-23-1168. 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 1 – Reevaluation and Compensatory Education

- a. By no later than September 1, 2023, after providing proper written notice to the Student's parent, the Division will convene a group of persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options, making all reasonable efforts to include the parent, to review the Student's current placement, including but not limited to the provision of a paraprofessional with knowledge and skill in the mode of communication of the Student and who can communicate to the Student what is occurring in the Student's educational setting, to ensure that the Division is providing the Student with a FAPE and with appropriate auxiliary aids and services necessary to afford the Student an equal opportunity to participate in and enjoy the benefits of the Division's educational program, and to ensure that communications with the Student are as effective as communications with other students. The Division shall ensure that the placement determinations are made consistent with 34 C.F.R. §§ 104.34, 104.35, and 104.36, taking into account the Division's obligations under 28 C.F.R. §35.160 (with reference to relevant definitions provided in §35.104). The Division will provide the Student's parent/guardian with written notice of the outcome of the meeting, including an explanation for the decisions made, and notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.
- b. By no later than September 1, 2023, 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, to discuss the provision of compensatory and/or remedial services to the Student for the time period the Student may not have received appropriate regular and/or special education or related services during the 2022-2023 school year. If the group determines that the Student needs compensatory and/or remedial services, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond October 31, 2023. The Division will provide the Student's parent with written notice of the outcome of the meeting, including an explanation for the decisions made, a description of and schedule for providing compensatory and/or remedial services (if any) to the Student, and notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

- a. Within 15 calendar days of the meetings required by Action Item 1, the Division will submit to OCR copies of the meeting minutes or similar documentation from the meetings, including an explanation for the decisions made upon reevaluation and regarding compensatory and/or remedial services, 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 also will submit to OCR a copy of the written invitation(s) to the Student's parent/guardian and a copy of the notice(s) of the outcome of the meetings that was provided to the Student's parent/guardian. 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, and to ensure compliance with 28 C.F.R. §35.160 (with reference to relevant definitions provided in §35.104, in making these determinations.
- b. By November 30, 2023, 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).

Action Item 2 – Staff Training

- a. By September 15, 2023, the Division will provide training to all XXXXX School staff responsible for implementing or ensuring the implementation of students' IEPs and Section 504 Plans on the requirement under Section 504 and Title II to provide a free appropriate public education, including through implementation of a student's IEP or Section 504 Plan. The training also will cover the Title II requirement in 28 C.F.R. §35.160 to ensure that communication with students with hearing, vision, or speech disabilities is as effective as communication with students without disabilities and discuss the potential impact of a failure to implement a student's IEP on the Division's compliance with this Title II requirement.

Reporting Requirements:

- a. By August 15, 2023, the Division will submit to OCR, for OCR's review and approval, a copy of the proposed training materials and the name(s), position title(s), and qualifications of the individual(s) who will conduct the training.
- b. By October 2, 2023, the Division will provide verification of the training required by Action Item 2 to OCR, including: (a) the name of the individual(s) who conducted the training; (b) the date(s) of the training session(s); (c) all training materials; and (d) a sign-in sheet with the names, signatures, and position titles of the Division personnel who participated in each training session.

By signing this Agreement, the Division agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. 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.

The Division understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the Division is in compliance with the terms of the Agreement and with Section 504 and its implementing regulation at 34 C.F.R. Part 104 and Title II and its implementing regulation at 28 C.F.R. Part 35.

The Division understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice for judicial proceedings to enforce the specific terms of this Agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the Division written notice of the alleged breach and 60 calendar days to cure the alleged breach.

By: Kristina Roman, Coordinator Due Process and Eligibility Date: July 26, 2023