

RESOLUTION AGREEMENT
Horry County Schools
OCR Case No. 11-23-1350

Horry County Schools (the District) agrees to fully implement this Resolution Agreement to resolve the allegation investigated in Office for Civil Rights (OCR) Case No. 11-23-1350. This Agreement does not constitute an admission by the District 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 – Review of Students with Repeated Unexcused Absences / Action Required

By **December 1, 2023**, the District will compile a list of all District elementary school students who received an unexcused absence as a result of any non-District provided (i.e., independent) therapy session during the 2022-2023 school year. For each student on the list, the District will take the following actions, consistent with the procedural and other requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35, and 104.36:

- a. For each student identified as eligible to receive special education and/or related services, the District will assess whether available information indicates that the student’s educational program is not meeting the student’s individual educational needs. If appropriate, the District will convene a group of persons knowledgeable about the student, making all reasonable efforts to include the parent/guardian, to determine if the student requires a change in placement or additional or different related services, including District-provided therapy services, in order to ensure the provision of a free appropriate public education (FAPE).
- b. For each student not previously or currently identified as eligible to receive special education and/or related services, the District will assess whether available information indicates that the student may need special education and/or related services, including District-provided therapy services, due to a disability. If appropriate, the District will convene a group of persons knowledgeable about the student, making all reasonable efforts to include the parent/guardian, to evaluate the Student to determine eligibility and, if relevant, appropriate placement and related services for the student.

Reporting Requirements:

- i. By **January 4, 2024**, the District will provide OCR with an Excel spreadsheet that lists all students by name or unique identifier who the District identified pursuant to Action Item 1. The spreadsheet will also include the following information for each student: (a) the school the student attends; (b) the number of unexcused absences incurred to attend independent therapy sessions and the dates of such absences; (c) whether the student had previously been identified as a student with a disability and deemed eligible to receive special education and/or related services; and (d) what action the District took pursuant to Action Item 1 to ensure compliance with Section 504 and Title II, specifically with respect to the provision of a FAPE

to each student listed, and the date and outcome of each action. OCR may request additional documentation concerning specific students as necessary, in which case the District will provide the requested information within 14 calendar days of OCR's request.

Action Item 2 - Compensatory Services

By **December 1, 2023**, for each student the District evaluated or reevaluated pursuant to Action Item 1 who the District determined to be eligible for special education or related services, and/or required a change in placement and/or additional or different related services, after providing proper written notice to the student's parent/guardian, the District will convene a group of persons knowledgeable about the student,¹ making all reasonable efforts to include the parent/guardian, to discuss whether compensatory and/or remedial services are appropriate for any time period during the 2022-2023 school year when the student may not have received appropriate regular and/or special education or related services. If the group determines that the student needs such services, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **June 15, 2024**. The District will provide the Student's parent/guardian with written notice of the outcome of 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 notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

- i. By **January 4, 2024** the District will submit to OCR an Excel spreadsheet that lists all students by name or unique identifier who the District evaluated for compensatory or remedial services pursuant to Action Item 2. The District will include the following information for each student listed: (1) the name of the school; (2) the date of the meeting; (3) a list of meeting attendees, and whether the parent/guardian attended the meeting; (4) a list of documentation and information considered during the meeting; (5) the outcome of the meeting; (6) an explanation for the decision; and (7) the schedule for the provision of compensatory services, if relevant. OCR will review the information 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 the determinations. OCR may request additional documentation concerning specific students as necessary, in which case the District will provide the requested information within 14 calendar days of OCR's request.
- ii. By **July 1, 2024**, the District will provide documentation to OCR evidencing the dates, times, and locations that compensatory and/or remedial services were provided for each student determined to need compensatory and/or remedial services pursuant to Action Item 2. Such documentation will include a description of what was provided and the name(s) of the service provider(s).

¹ This may be part of the same meeting described in Action Item I.

Action Item 3 – Revision to Policies/Procedures to Ensure the Provision of FAPE

By **October 16, 2023**, the District will revise its written policies and procedures to establish a protocol that requires District staff handling and responsible for attendance records to promptly share with appropriate special education staff any information they receive that indicates that a student is missing school due to independent therapy sessions. The revised policies and procedures will further establish that upon receipt of such information, special education staff will promptly determine whether further action is needed to ensure that each qualified student with a disability is identified and provided with a FAPE.

Reporting Requirements:

- i. By **October 16, 2023**, the District will submit to OCR a copy of its draft policies and procedures, revised in accordance with Action Item 3, for OCR’s review and approval.
- ii. Within **15 calendar days** of receiving OCR’s approval, the District will provide OCR with documentation demonstrating that it has disseminated the revised policies and procedures to all District staff handling and responsible for attendance records, including attendance and data quality staff and their supervisors, and to all special education staff at all District schools, together with a memorandum approved by OCR explaining any changes and the reasons for the changes.
- iii. By **January 4, 2024**, and again by **July 1, 2024**, the District will provide OCR with an Excel spreadsheet that lists all students by name or unique identifier with unexcused absences due to independent therapy services for the preceding semester. For each student, the District will include in the Excel spreadsheet the following information: (a) the school the student attends; (b) the dates of any unexcused absences incurred to attend independent therapy sessions; (c) whether the student had previously been identified as a student with a disability and deemed eligible to receive special education and/or related services; (d) District action taken to ensure compliance with Section 504 and Title II, specifically with respect to the provision of a FAPE to each student listed; and (e) the date(s) and outcome of any such District action, including the results of any evaluation or re-evaluation and the dates of each determination. OCR may request additional documentation concerning specific students as necessary, in which case the District will provide the requested information within 14 calendar days of OCR’s request.

Action Item 4 – Training

Prior to the start of the 2023-2024 school year, the District will provide training to all District administrators, special education staff, and all District staff handling and responsible for attendance records, including attendance and data quality staff and their supervisors, regarding the District’s obligations under Section 504 and Title II to evaluate any student who needs or is believed to need special education or related services and to reevaluate any student with a disability where there is reason to believe a change in placement and/or additional or different related

