

**Resolution Agreement
Whiteford Agricultural Schools
OCR Docket No. 15-14-1191**

Whiteford Agricultural Schools (the District) submits the following agreement to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and to ensure the District's compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Nothing in this Agreement constitutes a finding against or admission of wrongdoing or liability by the District pursuant to any federal law, including Section 504 or Title II. The District agrees to take the following action steps:

I. Individual Remedies

- A. By July 15, 2015, the District will reimburse the Student's parents for their expenses related to obtaining a private mental health evaluation of the Student and mileage, at the IRS medical rate for 2014, in the total amount of \$458.04.

- B. By July 15, 2015, the District will write a letter to the Student and his parents extending an offer for the Student to receive at the District's expense:
 - i. Counseling, not to exceed 6 weekly sessions. If the Student has a private counselor, the Student will be allowed to continue to seek treatment from this counselor at the District's expense. Otherwise, the District will offer to provide the Student with individual counseling sessions with a District-employed licensed counselor agreed to by the Student and parents at no cost to the Student's parents. Any counseling sessions for the Student will begin no later than 30 calendar days after the District receives information regarding the Student's private counselor or agreement as to the District counselor. The Student's parents will submit documentation of their personal cost for private counseling sessions, if applicable, and the District will reimburse them within 15 calendar days of receipt. The letter will specify that the Student must accept the offer for counseling on or before August 31, 2015.

 - ii. XXXXXX-related education or experience, such as XXXX XXXXXXXX (not to exceed 6 weekly XXXXXXXX), participation in a XXXXX XXXXX XXXXX XXXX, registration in a local XXXXX XXXXXXXXXXXX competition, or similar experience, agreed to by the Student, to remediate that the District's exclusion of the Student from participation in a XXXXX XXXX XXXXXXXXXXXXXXX during the XXXXXXXXXXXX 2014 removal. Alternatively, the District will provide the Student \$300.00 to select and arrange for his own substitute

XXXXXXX education or experience. The letter will specify that the Student must accept the offer for XXXXXX-related education or experience, or the \$300.00 to select and arrange his own XXXXXX education or experience, on or before August 31, 2015.

REPORTING REQUIREMENTS:

- By **July 15, 2015**, the District will submit to OCR documentation showing that it reimbursed the Student or his parents the \$458.04 referenced in paragraph I.A., above. The District will also submit to OCR a copy of its letter to the Student.
- By **October 30, 2015**, the District will submit to OCR documentation of whether the Student or his parents accepted the offer of counseling at the District's expense, including documentation of the number of appointments provided and by whom, and if the Student saw his own private counselor, that the District reimbursed the Student's parents for the cost of the appointments. The District will also submit documentation of the XXXXX-related education or experience provided for the Student, or, alternatively, its payment to the Student.

II. District-wide Remedy

- A. By August 31, 2015, the District will submit to OCR for review and approval revisions to its Bylaws and Policies, at Section 2260.01 (SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY) to ensure that they are consistent with the requirements of Section 504 and Title II. The policy will at minimum:
- i. Consistently define a qualifying disability as a mental or physical impairment that substantially limits a major life activity.
 - ii. Make clear that eligibility under Section 504 may not be limited to students who have physical or mental impairments that impact learning. The policy may list potential major life activities to consider, and this may include learning, but the list must be clearly labeled as non-exhaustive.
 - iii. Make clear that students determined to have a disability under Section 504 may qualify for placement that includes regular or special education and related aids and services designed to meet the individual needs of the student as adequately as the needs of students without disabilities.
- B. By August 31, 2015, the District will submit to OCR for review and approval revisions to its risk assessment procedures to ensure that the procedures do not

subject students who have disabilities or who are perceived as having mental impairments to different treatment than students without disabilities with respect to their attendance at the District absent the District being able to demonstrate that a student poses a direct threat to others. The procedures will at minimum clearly state:

- i. The District's obligation to provide each qualified student with a disability a free appropriate public education.
- ii. Where the District has a reasonable basis for believing that the behavior/misconduct of a student that poses a health or safety risk to self or others is related to a physical or mental impairment, the District will conduct an evaluation in accordance to 34 C.F.R. § 104.35, unless, as in exceptional circumstances, the District determines that a student poses an imminent threat to the health or safety of others.
- iii. In determining whether a student with or suspected of having a disability is a direct threat towards others, the individual conducting the risk assessment will consult with the District's Section 504 coordinator and other persons knowledgeable about the student and the disability to consider evaluative data consisting of current medical knowledge or on the best available objective evidence. The assessment must determine the nature, duration and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of the District's policies, practices, or procedures will mitigate the risk. The District will provide notice of its decisions and notice of Section 504 procedural safeguards/due process rights pursuant to 34 C.F.R. § 104.36 to the student's parents.
- iv. If the District determines that a student poses a direct threat, and is not a qualified student with a disability or a student's misconduct/behavior was not caused by or did not have a direct and substantial relationship to the student's disability, the District may implement disciplinary consequences as it would to any other student in the District, including but not limited to placing special conditions on a student's participation in its programs or activities, including extracurricular activities.

REPORTING REQUIREMENTS: By **August 31, 2015**, the District will provide OCR with a draft of its revised policy and revised risk assessment procedure for review and approval.

- C. Within 30 calendar days of receipt of the OCR-approved revised Bylaws and Policies at Section 2260.01: SECTION 504/ADA PROHIBITION AGAINST

DISCRIMINATION BASED ON DISABILITY and OCR-approved revised risk assessment procedures, the District will adopt and begin implementing the policy and procedures.

REPORTING REQUIREMENT: Within 30 calendar days after receiving written notification from OCR of the OCR-approved revised procedures, the District will submit documentation to OCR to verify that it has adopted and is implementing the OCR-approved policy and procedure. By June 15, 2016, the District will submit documentation to OCR regarding its ongoing implementation of the OCR-approved revised procedures during the 2015-2016 school year, including a list of all students evaluated for disability and the results; a list of any students for whom a disability evaluation was refused and the reason each student was not evaluated; copies of all Section 504 plans developed under the new Section 504 policies during the school year; and documentation of any use of the District's revised risk assessment procedures, including any related forms and supporting documents.

- D. Within 60 calendar days after receiving the OCR-approved revised risk assessment procedure, the District will provide training to its building principals, Section 504 Coordinator, and other District officials involved in the District's risk assessment process on the revised risk assessment procedure. This training will also cover the general nondiscrimination prohibitions of Section 504 and Title II, which would include not treating students with mental impairments or perceived mental impairments differently than students without disabilities based on stereotypes or perceived generalizations about categories of disability. The District may request OCR to provide the Section 504 and Title II component of the training at no cost to the District.

REPORTING REQUIREMENT: Within 90 calendar days after receiving the OCR-approved revised policy and procedure, the District will submit to OCR documentation to verify that it implemented item II.D above, including any agendas, outlines, handouts, and sign-in sheets from the training(s) provided to the Section 504 Coordinator and District officials along with information on who provided the training and their credentials.

GENERAL REQUIREMENTS

The District understands that, by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the District understands that during the monitoring of this Agreement OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4, 104.33, and 104.35(a), and Title II at 28 C.F.R. § 35.130, which were at issue in this investigation.

The District understands that OCR will not close the monitoring of the Agreement until OCR determines that the recipient has fulfilled the terms of the Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4, 104.33, and 104.35(a), and Title II at 28 C.F.R. § 35.130.

The District 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 shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/

06/29/2015

Superintendent or authorized designee

Date