

**Resolution Agreement
Lamphere Schools
OCR Docket #15-14-1297**

Lamphere Schools (the District) submits this Resolution 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, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, as well as with Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

The District agrees to take the actions listed below in order to provide the Student and other individuals with disabilities, in particular those with mobility impairments, access to the District's facilities and programs at Simonds Elementary School (the School). Any structural modifications made pursuant to this agreement will be done in accordance with the 2010 ADA Standards for Accessible Design (the 2010 ADA Standards).

Action Steps

I. Individual Remedies for the Student

- A. By March 24, 2017, District officials knowledgeable about the Student and his disabilities will contact the Student's current school district, the Royal Oak Public Schools, to schedule a meeting by no later than March 31, 2017, with the Student's current Individualized Education Program (IEP) team, including the Student's parent(s), who will be given proper advance written notice, for the purpose of assessing what compensatory education and/or remedial services are appropriate for the Student to address the District's failure to provide the Student with physical education services pursuant to his IEP during the 2014-2015 school year, including with respect to the 7.5 hours of gym sessions the District did not provide the Student at all, the shortened gym sessions the District did provide, and the lack of appropriate services provided when the Student did attend gym. Within three weeks of this determination, the District will develop a plan for providing timely compensatory and/or remedial services to the Student with a completion date not to extend beyond June 30, 2017. The District will provide the Student's parent(s) notice of the determinations and of procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

1. By April 21, 2017, the District will submit to OCR documentation verifying its implementation of Action Step I.A above, including copies of all notices sent to the Student's parent(s) and documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial

services (if any) to the Student. OCR will review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35, and 104.36, in making these determinations.

2. By June 30, 2017, the District will provide OCR with 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).
- B. By March 27, 2017, the District will send a letter to the Student's parent(s) advising that, should the Student reenroll in the District, the District will: provide for the Student's equal access to physical education and recess, the District will take all measures necessary to ensure that each part of its program and activity is readily accessible to the Student; and convene a meeting of a group of persons knowledgeable about the Student, the Student's evaluation data, and the placement options, including the Student's parent(s), to, at a minimum, take the following actions:
1. determine the specific physical education placement and services appropriate for the Student based on his individual needs; and the frequency, amount, location, and service provider(s) for the services, which will be provided in the most integrated setting appropriate to the Student's needs;
 2. identify and plan for any training needed by the Student's service provider(s) to properly fulfill the Student's placement and services; and
 3. determine how the District will provide recess for the Student in a manner and in the most integrated setting appropriate to his individual needs, and any equipment and/or modifications the District must obtain for this purpose.
- C. Within 10 school days of the Student's reenrollment, the District will convene the meeting described in Action Step I.B above and will take all necessary actions to ensure the accessibility of its program and activities to the Student. In providing program access to the Student, the District may use means including but not limited to redesign of equipment, reassignment of classes or other services, and structural changes. The District will give priority to those methods that will serve the Student in the most integrated setting appropriate. The District will not employ carrying as a method of providing program access to the Student.

Reporting Requirements: By March 31, 2017, the District will provide to OCR a copy of the letter sent to the parent. Within 30 days of the Student's reenrollment during the 2016-2017 school year, the District will provide to OCR documentation of the implementation of Action Steps I.B and I.C above, including documentation showing the participants in the meeting, an explanation for decisions made, the information considered, the Student's revised IEP. OCR will review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. § 104.34, 104.35, and 104.36. The District will also within 30 days of

the Student's reenrollment provide documentation verifying all steps it has taken to provide access to the Student to the District's programs and activities and to implement the decisions of the group regarding physical education, staff training, and recess. Alternatively, if the Student did not reenroll by June 30, 2017, the District will provide OCR with a statement that the Student was not enrolled in the District for the 2016-2017 school year.

II. Schoolwide Remedies

- A. By May 26, 2017, the District will make structural changes to the playgrounds at the School to ensure accessibility, pursuant to the 2010 ADA Standards, including, but not limited to 2010 ADA Standards Sections 240 and 1008 and Chapter 4, and including but not limited to the following actions:
1. the District will construct accessible routes to, through, and around the playground sites;
 2. the District will install or correct and maintain a ground surface within the playground sites that meets the American Society for Testing and Materials F 1951-99 Standard (ASTM F 1951-99) for accessibility within play areas; and
 3. the District will construct appropriate ramps and/or transfer systems to play components.

Reporting Requirements: By May 26, 2017, the District will provide OCR with documentation, including photographs, work orders, purchase orders, measurements, or other documentation demonstrating its compliance pursuant to Action Step II.A. By June 30, 2017, the District will submit documentation to OCR verifying its continued maintenance of the accessible routes to and throughout the playground area. Documentation should include copies of the playground maintenance log and may include other materials such as photographs, work orders, and purchase orders. OCR may conduct an onsite visit to the School to confirm full implementation of these items in accordance with the 2010 ADA Standards.

- B. By May 26, 2017, the District will develop a transition plan setting forth the steps necessary to meet the program access requirements of 34 C.F.R. § 104.22 and 28 C.F.R. § 35.150 with respect to the programs and activities operated at the School (with the exception of the playgrounds, which are new construction and are addressed in Action Step II.A above). In developing the plan, the District will provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. The District will make a copy of its transition plan available for public inspection. The plan will, at a minimum:
1. Identify physical obstacles in the School's facilities that limit the accessibility of the District's programs or activities to individuals with disabilities.

2. Identify the District’s programs, activities, and services being administered at the School. These include, but are not limited to, operation of the elementary school programs, volunteer programs and services, community programs and services, parent programs and services, and employee programs and services.
3. Include a review all of the policies and/or practices that govern the administration of the programs, activities, and services identified under Action Step II.B.2.
4. Describe in detail the methods the District will use to make the programs and activities at the School accessible to persons with disabilities, which may include, but not be limited to redesign of equipment, reassignment of classes or other services, and alteration of facilities and construction of new facilities. In choosing among available methods for providing program access, the District will give priority to those methods that serve persons with disabilities in the most integrated setting appropriate. The District will not employ carrying of individuals with disabilities as a method for providing program access.
5. Specify the schedule for any modifications or steps necessary to provide program access at the School, with the modifications or steps to be completed by June 30, 2017.
6. Indicate the District official responsible for implementation of the transition plan.

Reporting Requirements: By May 26, 2017, the District will submit to OCR for review and approval its transition plan developed pursuant to Action Step II.B and documentation of its efforts to obtain input from interested persons, including copies of any comments received. By June 30, 2017, the District will submit documentation verifying its completion of the steps outlined in the transition plan.

General Requirements

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement in compliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.4, 104.21, 104.22, 104.23, and 104.33, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130, 35.133, 35.149, 35.150, and 35.151, which were at issue in this case.

The District 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 this agreement. Further, the District understands that during the monitoring of this agreement, if necessary, 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 fulfilled the terms of this agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.4, 104.21,

104.22, 104.23, and 104.33, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130, 35.133, 35.149, 35.150, and 35.151.

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 sixty (60) calendar days to cure the alleged breach.

/s/

01/16/2017

Lamphere Schools
Superintendent or Designee

Date