

Resolution Agreement
Muskegon Montessori Academy for Environmental Change
OCR Docket #15-15-1073

The Muskegon Montessori Academy for Environmental Change (the Academy) voluntarily submits this Resolution Agreement to the U.S. Department of Education (the Department), Office for Civil Rights (OCR), to resolve the above-referenced complaint and to ensure 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, 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 shall be construed as an admission of wrongdoing or liability by the Academy. The Academy agrees to take the following action steps:

ACTION STEPS – Individual Remedies

1. By **May 1, 2016**, the Academy will convene the Student’s Individualized Education Program (IEP) team (the team) to make the determinations identified below in Action Step 1(a)-(d). The Academy will invite the Student’s parent to participate in the team meeting, giving her reasonable notice, and, in the event that the parent is unable to attend, the Academy will provide her with a meaningful opportunity to provide input into team determinations. The Academy will also provide the Student’s parent with a written notice of the team’s determinations and of the procedural safeguards available to her under 34 C.F.R. § 104.36, including her right to challenge such determinations through an impartial due process hearing.

Specifically, the team will:

- a. Determine whether, between the beginning of the xxxx-xxxx school year and xxxxx xx xxxx, the Student had a disability, as defined under the Section 504 regulation as a mental or physical impairment that substantially limits one or more major life activities. If the team determines that the Student did have a disability during this time period, then the Student was entitled to receive a free appropriate public education (FAPE) under Section 504. Accordingly, the team will determine what, if any, compensatory education or other remedial services the Student requires from this time period when he was either on a xxxx-xxx xxxxxxxx or xxxxxxxx from xxxxxx altogether.
- b. If the team determines that the Student had a disability under Section 504 during the time period from the beginning of the xxxx-xxxx school year through xxxxx xx xxxx, the team must also conduct a xxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxx to consider whether the Student’s xxxxxxxx that resulted in xxx xxxx-xxxx xxxxxxxxxxxx and xxxxxxxx was the result of xxxxxxxx xxxxxxxx xx xxx xxxxxxxxxxxx and, if so, determine what compensatory education or other remedial services the Student requires as a result of xxx xxxxxxxxxxxx and xxxxxxxxxxxx. If the team concludes that the Student’s xxxxxxxx leading to xxx xxxxxxxxxxxx xxx xxxxxxx was a xxxxxxxxxxxxxxxx of xxx xxxxxxxxxxxx, the Academy will xxxxxxx

the xxxx-xxxx xxxxxxxxxxxx and xxxxxxxxxxxx from the Student's xxxxxxxxxxxx xxxxxxx.

- c. Determine whether, following the Student's xxxxxxxxxxxx at the Academy on xxxxx xx xxxx, the Student was denied a FAPE while on a xxxx-xxx schedule during the end of the xxxx-xxxx school year and the first semester of the xxxx-xxxx school year. If the team concludes that the Student was denied a FAPE during that time period, the team will consider whether the Student requires compensatory education or other remedial services. Such determination will be based on an assessment of whether the Student received full access to the Academy's academic program and whether the Student was provided with appropriate disability-related aids and services during that time.
- d. Develop a written plan for providing the Student with the compensatory education or other remedial services deemed necessary pursuant to Action Steps 1(a)-(c) above, which plan will identify the nature and amount of the services to be provided at no cost to the Student's parent, by whom, and when, and will become part of the Student's IEP.

REPORTING REQUIREMENTS: By **May 1, 2016**, the Academy will provide OCR with documentation to demonstrate its implementation of Action Step 1 above, including: documentation showing when the team met, who was present, what was discussed, the team's decisions, and the basis for those decisions; copies of any meeting minutes; a copy of any plan developed for the Student, documentation of any input provided by the Student's parent and showing that procedural safeguards were provided to her; and any other documentation relevant to the determinations reached in accordance with Action Step 1 above. Should the Academy determine that no compensatory education or other remedial services are necessary or that such compensatory education or other remedial services have already been provided, the Academy will provide a written explanation of the reasons for those determinations, along with any supporting documentation. The Academy will similarly provide a written explanation and supporting documentation for its determination regarding the xxxxxxxxxxxx xxxxxxxxxxxx. OCR will review the documentation submitted to ensure that the Academy met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35 and 104.36, in making these determinations.

If the team determines that compensatory education or other remedial services are necessary, the Academy will submit documentation to OCR by **June 30, 2016**, verifying any compensatory education or other remedial services were offered, in writing, to the Student's parent, and provided to the Student, including the dates, times, and locations that the compensatory education or other remedial services were provided to the Student, and the name(s) and title(s) of the service provider(s). Should the services be rejected by the Student's parent, the District will provide OCR with documentation of such rejection from the Student's parent and documentation showing that it provided the Student's parent with a written notice of procedural safeguards following the rejection.

ACTION STEPS – Academy-wide Remedies

2. By **May 1, 2016**, the Academy will revise and submit for OCR’s review and approval its policies and procedures to implement the Academy’s obligations under Section 504 and its implementing regulation at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36 regarding, at a minimum, identification, evaluation, reevaluation, placement procedures, procedural safeguards, and provision of FAPE to qualified students with disabilities.

REPORTING REQUIREMENT: By **May 1, 2016**, the Academy will submit the revised policies and procedures it developed pursuant to Action Step 2 to OCR for review and approval.

3. Within 30 calendar days of OCR’s approval of the revised policies and procedures, the Academy will:
 - a. Adopt and implement the OCR-approved revised documents, publish the documents on its website, and include copies in its student and employee handbooks, if applicable. The Academy may add inserts to any existing handbooks and distribute those inserts to students and employees until such time as the hard copy handbooks may be appropriately updated. The Academy will ensure that any Academy documents or documents from other sources that are inconsistent with the revised procedure are updated or removed.
 - b. Notify students, parents, and guardians of the revised policies and procedures and where copies may be obtained by means that are designed to reach each student, parent, and guardian. Such means could include placing a notification in any regularly issued Academy newsletters or bulletins or sending a notice or a copy of the revised procedure home with each student.
 - c. Provide copies of the revised documents to all Academy staff and administrators.

REPORTING REQUIREMENT: Within 30 calendar days of OCR’s approval of the revised policies and procedures, the Academy will submit information to OCR documenting implementation of Action Step 3 above including: a description of the means used to provide notice to students, parents, and guardians of the Academy’s revised procedures and copies of any notices issued; the link to the procedures on the Academy’s website; verification that any inconsistent Academy documents were revised or removed; and documentation that copies of the procedure were distributed to Academy staff and administrators.

4. Within 60 calendar days of receipt of the OCR’s approval of the revised policies and procedures, the Academy will provide training by a competent authority on Section 504 to all of its administrators and staff members who are directly involved in the identification, evaluation, reevaluation and placement of students with disabilities. At a minimum, the training will cover: the District’s revised policies and procedures; Section 504 and Title II’s prohibition against discrimination and different treatment on the basis of disability; Section 504 regulation requirements regarding the identification, evaluation, reevaluation, and placement of students with disabilities; the Section 504 regulation

requirement that parents be provided with a meaningful opportunity to provide input into decisions regarding the identification, evaluation, reevaluation, and placement of students with disabilities; the Section 504 regulation requirement that parents and guardians be provided with notice of their procedural safeguards with respect to decisions regarding the identification, evaluation, reevaluation, and placement of students with disabilities; and Section 504's requirement that students with disabilities be provided with a FAPE.

REPORTING REQUIREMENT: Within 60 calendar days of OCR's approval of the revised policies and procedures, the Academy will submit to OCR information documenting implementation of Action Step 4 above, including the following: date(s) of the training(s); a copy of the training agenda; copies of training materials used; the name, title, and qualifications of the person(s) who provided the training(s); and sign-in sheets for each session, including the name and title of each attendee.

General Requirements

The Academy understands that OCR will not close the monitoring of this Agreement until OCR determines that the Academy has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36, which were at issue in this case.

The Academy 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 Academy understands that during the monitoring of this Agreement, if necessary, OCR may visit the Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Academy has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36.

The Academy 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 Academy written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____
Superintendent or Designee

____3/9/16_____
Date