

**Voluntary Resolution Agreement**  
**Comstock Park Public Schools**  
**OCR Docket #15-17-1375**

Comstock Park Public Schools (the District) submits this Voluntary Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and 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. This Agreement is voluntarily submitted by the District before completion of OCR's investigation and any issuance of findings and does not constitute an admission that the District violated Section 504, Title II of the Americans with Disabilities Act, or their respective implementing regulations.

**STUDENT ACTION ITEMS:**

1. Within **15 (fifteen) calendar days** of signing the Agreement, the District will reconvene a team knowledgeable about the Student, the Student's evaluation data, and the placement options, to reevaluate the Student to determine if she qualifies as a student with a disability and is entitled to disability-related aids and services. The evaluation must be conducted consistent with the requirements of the Section 504 implementing regulation at 34 C.F.R. §§ 104.35 and 104.36, and must utilize a definition of disability consistent with 34 C.F.R. § 104.3(j). In evaluating the Student, the District must gather and carefully consider evaluation data, including, but not limited to, medical and other documentation and input provided by the Student's parent(s). Further, in determining whether the Student has a disability, the District may not consider the mitigating effects of the Student's medications and shall not limit its determination to whether the Student is substantially limited in a major life activity related to school or learning.
2. If, pursuant to Action Item #1, the Student is determined to be a Student with a disability, the team will also determine what, if any, regular or special education and related aids and services are necessary to provide the Student with a free and appropriate public education (FAPE) consistent with the requirements of 34 C.F.R. § 104.33. If the Student is determined to require services to receive a FAPE, the team will develop an education plan documenting the Student's placement and the disability-related aids and services she is to be provided. The team will also determine what compensatory education or other remedial services, if any, the Student requires for the time period from XXXXXX XXXX through the effective date of the new education plan as a result of the District's failure to properly evaluate the Student. If compensatory education or other remedial services are determined to be necessary, the team will develop a written plan for providing the Student with such services that will identify the nature and amount of the services to be provided at no cost to the Student's parent(s), by whom, and when, and that will become part of the Student's education plan.
3. The Student's parent(s) will be provided a meaningful opportunity to provide input into any decisions related to Action Items #1 and 2 above, including the evaluation and

placement of the Student and compensatory education and other remedial services, as well as the creation of any education plan or plan for compensatory education and remedial services. The Student's parent(s) will also be provided with a copy of any education plan and plan for compensatory education and remedial services, written notice of any determinations made pursuant to Action Items #1 and 2, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

**REPORTING REQUIREMENTS:**

Within **30 (thirty) calendar days** of signing the Agreement, the District will provide OCR with documentation demonstrating its compliance with Action Items #1-3, including:

- a) A list of individuals by name and title involved in evaluating the Student; copies of any evaluation materials reviewed or relied on in determining whether the Student constituted a student with a disability, including any medical records and input provided by the Student's parents; the dates of any evaluation and placement meetings; the names and titles of the individuals who attended each meeting; documentation regarding what was discussed at each meeting; documentation regarding the determinations made; a copy of any education plan created for the Student; documentation regarding whether the Student was found to require compensatory education or other remedial services and, if so, a copy of the written plan for providing those services; and documentation showing that the Student's parents were provided with a copy of any education plan or plan for compensatory education or other remedial services, as well as notice of their procedural safeguards. Should the District determine that no compensatory education or other remedial services are necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted 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.
- b) If, pursuant to Action Item #2, the team determines that compensatory education or other remedial services are appropriate, then by **October 1, 2018**, the District will provide OCR with documentation verifying that compensatory education and/or other remedial services were 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).

**DISTRICT ACTION ITEM:**

4. Prior to the start of the 2018-2019 school year, the District agrees to provide Section 504 and Title II training to the District's Section 504/ADA compliance officers, and all District staff, including, but not limited to, building principals and counselors, who are directly involved in the identification, evaluation, reevaluation and placement of students

with disabilities. The training shall be provided by a source with expertise in Section 504 and Title II and shall minimally cover: Section 504 and Title II's prohibition against discrimination and different treatment on the basis of disability; Section 504 and Title II's requirements regarding the identification, evaluation, re-evaluation, and placement of students with disabilities, including the appropriate definition of an individual with a disability and information regarding when mitigating measures may be considered in determining if a physical or mental impairment substantially limits a major life activity; and the requirement that parents be provided with a meaningful opportunity to provide input into evaluation and placement decisions and that they be provided with notice of their due process rights. The training will also emphasize that in determining whether a student is an individual with a disability, the District cannot limit its consideration to whether the Student is substantially limited in a major life activity related to learning or school.

**REPORTING REQUIREMENT:**

Prior to the start of the 2018-2019 school year, the District will provide OCR with documentation of its compliance with Action Item #4, including the date(s) of the training, the name, title and qualifications of the individual(s) providing the training, a copy of the training materials referenced or distributed during the training, and a copy of the sign-in sheet with the names, titles, and signatures of the individuals who attended.

**General Requirements for OCR Agreements**

The District understands that, by signing this Agreement, it agrees to provide the foregoing 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 has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.4, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130 and 35.160. Upon completion of the obligations under this Agreement, OCR will close this complaint.

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.

This Agreement will become effectively immediately upon the signature of the District's representative below.

/s/

April 23, 2018

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Signature of Superintendent or Designee

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Date

/s/

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By (Name and Title)