

**Resolution Agreement
Tipp City Exempted School District
OCR Docket #15-17-1466**

The Tipp City Exempted School District (District) submits this resolution agreement (Agreement) to the U.S. Department of Education's Office for Civil Rights (OCR) to resolve the above-referenced complaint and to ensure 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 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35. This Agreement has been entered into voluntarily and does not constitute a finding or an admission that the District is not in compliance with Section 504 or Title II and their implementing regulations.

The District recognizes and affirms its obligations under Section 504 and Title II to afford students with disabilities an opportunity to participate in or benefit from its educational services that is equal to that afforded to students without disabilities. The District also affirms its commitment not to discriminate against persons with disabilities and not to provide different aids, benefits, or services, such as aspects of its discipline program, to persons with disabilities unless such action is necessary to provide the students with aids, benefits, or services that are as effective as those provided to others or unless there is a legitimate, non-discriminatory, non-retaliatory reason for doing so.

The District therefore agrees to take the following steps.

1. Notice of Section 504 Plans

By January 31, XXXX, the District will develop a procedure for ensuring that relevant District staff members are notified, on at least an annual basis, of the existence and content of student Section 504 plans in effect each school year and of their responsibility for fully implementing those plans. By February 15, XXXX, the District will send relevant District staff notice under such procedures for the XXX school year.

Reporting Requirement

By February 28, XXX, the District will provide OCR with information documenting its implementation of Item 1 above, including a written copy of the procedure and a sampling of e-mailed or delivered notices sent regarding individual students.

2. Section 504 Team Meeting

By March 31, XXX, the District will convene a meeting of a group of persons knowledgeable about the student at issue in this complaint (the Student), evaluation data, and placement options (the Team). The Team will also include at least one District staff and/or administrator with knowledge about District XXX policies, procedures, and XXX. The District will either invite XXX to participate in the meeting or provide XXX with a meaningful opportunity to provide input into the following Team determinations. The Team will:

- a. determine whether the Student's behavior that led to XXX and ultimately to XXX was a manifestation of his disability and whether the XXX was appropriate;
 - (1) if the Team determines that the behavior in question was not a manifestation of the Student's disability, the District will determine whether the XXX is consistent with the XXX that a similarly situated student without a disability would have received for similar XXX; if not, then the Team will determine what District actions will rectify the different treatment, including modification of the Student's XXX record, and will then complete those actions;
 - (2) if the Team determines that the behavior in question was a manifestation of the Student's disability, the District will expunge any reference to the Student's XXX in his records, including any XXX files and his transcript;
- b. determine what, if any, compensatory education the Student requires due to any disability-related aids and services he failed to receive under his Section 504 plan due to XXX. If the Team determines that compensatory education is appropriate, it will develop a written plan for providing such education;
- c. after the meeting, the District will notify the Student in writing of the Team determinations, offer to implement any written plan developed, and notify him of the procedural safeguards afforded him under Section 504, including the right to challenge the determinations through requesting an impartial due process hearing from the District; and
- d. if the Student accepts the District's offer in writing within 20 school days of the notice referenced under 2.c above, the District will implement the written plan by the end of the XXX school year.

Reporting Requirements

By February 28, XXX, the District will submit to OCR documentation showing implementation of Item 2 above, including, for example: a copy of the invitation to XXX to attend the meeting or provide input, a written rationale for the Team's determinations, with any supporting documentation; a copy of the notice provided to XXX of the meeting

determinations, any offer of services, and XXX procedural safeguards; a copy of any written plan developed; and documentation of any remedial actions taken as a result of the manifestation determination and any compensatory education offer. Should XXX decline any offered education services, the District will provide documentation of the XXX refusal. If XXX does not respond, the District will provide documentation of its attempts.

3. Training and Notifications

- a. By March 31, XXX, the District will provide training by a person with expertise in Section 504 and Title II to school administrators, school psychologists, and guidance counselors who are involved in identification, evaluation, and placement of students with disabilities at the District's high school as to, at a minimum:
 - i. Section 504's requirement that students with disabilities, be provided with a free and appropriate public education (FAPE); and
 - ii. Section 504's requirement to re-evaluate a student with a disability prior to any significant change in placement, both in connection with and not in connection with a XXX process;
- b. By March 31, XXX, the District will provide training by a person with expertise in Section 504 and Title II to high school administrators responsible for XXX of students with disabilities as to:
 - i. the requirements of Section 504 and Title II regarding XXX of such students; and
 - ii. the types of discrimination prohibited by Section 504 and Title II, such as different treatment through XXX students with disabilities more harshly than other students;
- c. By March 31, XXX, the District will provide notice to teachers and administrators at the District's high school and to members of its Board of Education as to the grievance procure requirements of Section 504 and Title II as to providing for the prompt and equitable resolution of complaints alleging any action prohibited by those laws. The notice will:
 - i. clarify that all complaints of alleged disability discrimination, including XXX, allegedly carried out by employees, other students, or third parties may be filed under the District's grievance procedure;
 - ii. clarify that any staff member receiving reports or complaints of actions that could constitute disability discrimination will promptly notify the complainant about the District's grievance procedure and how it may be accessed and will also notify the District's Compliance Officers about the report(s); and

- iii. include where a copy of the procedure is located, both on the District's website and in any of its publications.

Reporting Requirements:

By March 31, XXX, the District will provide OCR with information documenting its implementation of Item 3 of the Agreement, including a copy of all training materials, as well as information documenting the date(s) of the training(s) and notices, the identity and qualifications of each person delivering the training(s), and any agendas, outlines, handouts, and sign-in sheets. Sign-in sheets should include the name, job title, and building of all persons who attended the training(s), if applicable.

4. By March 31, XXX, the District will ensure that its published notices of nondiscrimination--to notify students, applicants, employees, and other relevant persons that it does not discriminate on the basis of disability in admission or access to, or treatment or employment in, its programs or activities, as required by the regulations implementing Section 504 at 34 C.F.R. § 104.8 and Title II at 28 C.F.R. § 35.106--consistently include the name and/or position/Title, office address, telephone number, and e-mail address of the person designated to ensure the District's compliance with Section 504 and Title II (the Compliance Officer). The notices will be included in any recruitment materials or other publications containing general information that the District publishes and makes available to students, employees, applicants, or others in written form or through the District's website or reference to link to applicable information on the District's website.

The District may comply with this action item by using the language set out in OCR's August 2010 publication, "Notice of Nondiscrimination." *See* <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>, so long as it includes the necessary contact information for the Section 504/Title II coordinator. The notice may be combined with other required notices concerning non-discrimination based on sex, race, national origin, color, and age, as well as other relevant coordinators, as described in that publication.

Reporting Requirement:

By March 31, XXX, the District will provide OCR with information documenting its implementation of Item 4 of the Agreement, such as copies of the notice(s) and identification of where they are published.

General Requirements

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 the Agreement.

Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the recipient, interview staff, and request such additional reports or data as are

necessary for OCR to determine whether the District has fulfilled the terms of the Agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/ss/ _____
Superintendent or Designee

1/30/19 _____
Date