

**Pellston Public Schools  
Resolution Agreement  
OCR Docket #15-20-1241**

The Pellston Public Schools (the District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced complaint and ensuring 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 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. This Agreement is being voluntarily submitted by the District under Section 302 of OCR's *Case Processing Manual* and before the completion of OCR's investigation and any issuance of findings. Entering into this agreement is not an admission of liability or wrongdoing by the District. The District agrees to take the following actions:

**1. Section 504 Team Meeting**

By **September 17, 2021**, the District will convene a meeting of persons knowledgeable about the student (the Student), evaluation data, and Student's educational placements during the XXXX-XXXX and XXXX-XXXX school years and the placement options (the Team). The Team will include relevant teachers and at least one District staff and/or administrator with knowledge about District discipline policies, procedures, and sanctions. The District will either invite the Student's parent(s) to participate in the meeting or provide them with a meaningful opportunity to provide input into the following Team determinations. The Team will take the following actions:

- a. Determine whether the Student's behavior that led to XXX discipline during the XXXX-XXXX school year was a manifestation of XXX disability and, if so, conduct an evaluation of the Student to determine whether the disciplinary exclusions, in the aggregate, constituted a significant change of placement for the Student. In making this determination, the District will consider factors such as the length of XXXX XXXXXXXXXXXX, the proximity of the XXXXXXXXXXXX to one another, and the total amount of time the Student was XXXXXXXXXXXX XXXX XXX XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX XXX XXXXXXXXXXXX. The Team will also determine whether, in the XXXX-XXXX school year, the District's decision to change the Student's XXXXXXXXXXXX from XXXXXXXXXXXX to XXXXXXX XXXXXXXXXXXX, denied a free appropriate public education (FAPE) to the Student. At a minimum, the District will consider whether any of the changes XX XXXXXXXXXXXX resulted in a failure to provide the Student with regular or special education and related aids and services designed to meet XXX individual educational needs as adequately as the needs of students without disabilities were met and adhered to the procedural requirements of 34 C.F.R. §§ 104.34, 104.35, and 104.36 as to educational setting, evaluation and placement, and procedural safeguards.

(1) If the Team determines that the behavior in question was a manifestation of the Student’s disability, the Team will determine what compensatory education is due to the Student for any loss of instruction time (at a minimum 11 days) and any loss of special education services during the time that XXX was suspended.

(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 offense and punishment in XXX records, including any discipline files and XXX transcript.

(3) If the Team determines that the Student’s change XX XXXXXXXXXXXX XXXX XXXXXXXXXXXX XX XXXXXXX XXXXXXXXXXX, during the XXXX-XXXX school year, was not appropriate to meet the individual educational needs of the Student, the Team will determine what compensatory education is due to the Student and what, if any, modifications to that student’s placement are necessary to provide the student with a free appropriate public education (FAPE).

- b. Determine what, if any, compensatory education the Student requires due to any disability-related aids and services XXX did not receive under XXX Section 504 plan such as the “XXXX XXXX” provision during the XXXX-XXXX and XXXX-XXXX school years. 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’s parent(s) in writing of the Team determinations and implement any written plan developed, and notify them of the procedural safeguards afforded them under Section 504, including the right to challenge the determinations through requesting an impartial due process hearing from the District.

**Reporting Requirements:** By **October 29, 2021**, the District will submit to OCR documentation showing implementation of Item 1 above, including: a copy of the invitation to the Student’s parent(s) to attend the meeting or provide input, documentation of input provided by the Student’s parents, a copy of any meeting minutes, a written rationale for the Team’s determinations, with any supporting documentation; a copy of the notice provided to the Student’s parent(s) of the meeting determinations, any offer of services, and procedural safeguards; a copy of any written plan developed, and any other documentation relevant to the determinations reached in accordance with Item 1 above. 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 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.

By **October 29, 2021**, if the group described above determines that the student requires compensatory education or other remedial services, the District will provide documentation to OCR of the dates, times, and locations that the compensatory education or other remedial services were provided or offered to the Student, including the name(s) and title(s) of the service provider(s). If services outside of those added to the Student's Section 504 plan were offered but not accepted by the Student's parents, the District will provide OCR with evidence of the offer and the parents' response.

## **2. Section 504 Policies - Revised**

By **September 30, 2021**, the District will revise its procedures and any related forms to ensure that students with disabilities are evaluated or reevaluated prior to a significant change of placement, through a process that comports with the Section 504 regulation at 34 C.F.R. § 104.35. At a minimum, the procedures will require the following:

- a. The procedures will state before implementing any exclusion that constitutes a significant change in placement, the District will first conduct a reevaluation of the child under 34 C.F.R. § 104.35, the first step of which is to determine whether the child's behavior was a manifestation of his or her disability; this reevaluation will be made as soon as possible after the disciplinary action is administered and, in any event, before the eleventh day of the suspension or removal.
- b. The procedures will state that, in the discipline context, a significant change in placement includes any disciplinary suspension, expulsion or other exclusion that exceeds ten days, or any series of shorter suspensions or exclusions that in the aggregate total more than ten days and create a pattern of exclusion. In determining whether a pattern of exclusion exists, the District will consider all information in the student's special education and disciplinary files, the length of each suspension, the proximity of the suspensions to one another, and the total amount of time a student is excluded from school.
- c. Where the student's behavior is found to be a manifestation of a disability, the procedures must provide that the District will continue with the evaluation, following the requirements of the Section 504 regulation at 34 C.F.R. § 104.35, to determine whether the student's educational placement is appropriate and what, if any, modifications to that student's placement are necessary to provide the student with a free appropriate public education (FAPE). In some instances the District may need to consider whether a student has additional or different disabilities than previously identified. The group conducting the evaluation must be knowledgeable about the child, the evaluation data, and the placement options.
- d. The procedures must require that parents/guardians be provided with procedural safeguards as required by 34 C.F.R. § 104.36.

### 3. **Section 504 Policies - Adopted**

Once the revisions set forth in Item 2 above are finalized, District will adopt the procedures and form(s); publish them on the District's website, along with a link that provides ready access to the procedures and form(s); and notify staff of the revised procedures and form(s) by distributing a memorandum to staff and by including notice of them in a staff meeting or in-service training.

**Reporting Requirements:** By **October 29, 2021**, the District will submit to OCR, for review and approval, the procedures and form(s) revised pursuant to Item 2. Within 60 days of OCR's approval of the revised policies, the District will submit information documenting its implementation of Item 3 above, including a link to the procedures and form(s) on the District's website, and an explanation of how staff were notified of the revised procedures and forms, along with a copy of all written notices, if any.

### 4. **District Training**

Within 60 calendar days of adopting the revised procedures and form(s) pursuant to Action Step 2 above, the District will provide mandatory Section 504 training, by a competent authority on Section 504, to all District Section 504 coordinators, principals, assistant principals, special education teacher consultants, special education supervisors, and staff at each building responsible for tracking the discipline of students with a disability. The training shall include, at a minimum, Section 504's requirements regarding the evaluation, placement, and reevaluation of students with disabilities, with an emphasis on significant changes of placement and reevaluations including in the context of discipline. The training will also cover all of the revisions to its procedures and form(s) as described in Action Step 2 above.

**Reporting Requirement:** Within 60 calendar days of the District's revised procedures and form(s) revised pursuant to Action Step 2 above, the District will submit information to OCR documenting its implementation of Action Step 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. If any required participants were unable to attend the training, the District should note their names and titles and its plan for providing the training to those individuals.

### **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 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 and obligations of the Agreement. Upon the District's satisfaction of the terms and obligations of the Agreement, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District's representative below.

/s/

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Superintendent or Designee

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Date