

**Fairless Local Schools  
Resolution Agreement  
OCR Docket #15-22-1020**

Fairless Local 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. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

The District agrees to take the following actions:

1. By [redacted], the District will reconvene the Student's [redacted] team, including the Student and his parent(s), to review the non-academic or extracurricular activities that are available to the Student and revise his [redacted], as appropriate, to provide non-academic and extracurricular services and activities, including but not limited to athletics, in such a manner as is necessary to afford the Student an equal opportunity to participate in all services and activities for the [redacted] school year, should he wish to participate. The team will consider and determine any accommodations or reasonable modifications that would be necessary for the Student to participate in non-academic and extracurricular services and activities, in compliance with Section 504's implementing regulations at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.37, as well as the Title II's implementing regulation at 28 C.F.R. § 35.130(b)(7)(i). Any such decisions should be made by persons knowledgeable about the Student, the extracurricular activities, the Student's disability and appropriate accommodations that will provide equal access to the activities. The District will provide the Student's parent(s) with a meaningful opportunity to provide input into these determination(s). The District will also provide the Student's parent(s) with notice of the determination(s) made, and 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 Requirement:** By November 15, 2022, the District will provide OCR with documentation showing that the District implemented Item 1. The documentation should include: (i) all relevant records of the Student's [redacted] team meeting, including the invitation to the parent(s), the date and time of the meeting, the meeting minutes, a list of attendees, and their positions, an explanation of the determination(s), a copy of the Student's [redacted], and documentation of any input provided by the Student's parent(s); and (ii) documentation demonstrating that procedural safeguards were provided to the Student's parent(s).

2. By October 1, 2022, the District will draft and submit to OCR for review and approval a written policy memorandum to all District administrators, building principals, teachers, and all staff members of the District's special education department and athletic department including coaches, to remind them of the District's obligations under Section 504 and Title II and to ensure that qualified students with disabilities must be provided an equal opportunity to participate in non-academic and extracurricular activities, including athletics. The memorandum must include, at a minimum, the following:

- a. the District will provide non-academic and extracurricular services and activities, including athletics, in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities<sup>1</sup>;
- b. the District will make reasonable modifications to its policies, practices, and procedures whenever such modifications are necessary to ensure that qualified students with disabilities have equal opportunity to participate in extracurricular activities, including athletics, unless the District can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the non-academic or extracurricular activity<sup>2</sup>;
- c. the District will designate an individual, either at the District- or school-level, with responsibility for ensuring that requests for reasonable modifications are timely considered and determined, and that decisions regarding reasonable modifications are implemented within a reasonable period of time, and identify such responsible individual(s) including name and contact information;
- d. the District staff will contact and coordinate with the District's responsible individual(s) as identified and addressed in Item 2(c), when a student with a disability needs reasonable accommodations to participate in non-academic and extracurricular activities, including athletics;
- e. in making a determination regarding reasonable modifications discussed in Item 2(b), the District will conduct an individualized inquiry and determination of the following:
  - i. the particular student's disability;
  - ii. any IEP and/or Section 504 plan provisions related to non-academic and/or extracurricular activities, including but not limited to athletics;
  - iii. any reasonable modifications or necessary aids and services to provide such student with an equal opportunity to participate in non-academic and/or extracurricular activities, including but not limited to athletics; and
  - iv. the individualized determination mentioned above must be made by persons knowledgeable about the student, the extracurricular activities, the student's disability and appropriate accommodations that will provide equal access to the activities; and
- f. the District will provide for the notification of parents and/or guardians so that they can participate in the decision about whether the student with the disability will participate in the activities, and what, if any, accommodations and/or

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<sup>1</sup> See 34 C.F.R. § 104.37.

<sup>2</sup> See 28 C.F.R. § 35.130(b)(7)(i).

modifications will provide the student with the disability with equal access to the activities.

3. Within 30 calendar days of OCR's approval of the District's policy memorandum submitted pursuant to Item 2, the District will disseminate the policy memorandum to all staff (including administrators, building principals, teachers, and all staff members of the District's special education department and athletic department and all coaches known to be working with District students at the time of policy dissemination).

**Reporting Requirements:** By October 31, 2022, the District will provide OCR with documentation showing that the District implemented Item 2, including a copy of the policy memorandum drafted consistent with Item 2. Within 45 calendar days of OCR's approval of the District's policy memorandum submitted pursuant to Item 2, the District will provide OCR with documentation showing that the District implemented Item 3, including a copy of the policy memorandum and the detailed information explaining when, how and to whom the District disseminated this policy memorandum.

4. Within 60 calendar days of OCR's approval of the District's policy memorandum submitted pursuant to Item 2, the District will provide training to all staff members of the District's athletic department, including all coaches known to be working with District students at the time of the training, regarding the District's obligations under Section 504 and Title II to ensure that the District must: 1) provide qualified students with disabilities with an equal opportunity to participate in the District's athletics activities; 2) make reasonable modifications to its policies, practices, and procedures whenever such modifications are necessary to ensure that qualified students with disabilities have equal opportunity to participate in the District's athletic activities, unless the District can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the athletic activity; and 3) follow appropriate steps as set forth in the OCR-approved policy memorandum.

**Reporting Requirement:** Within 80 calendar days of OCR's approval of the District's policy memorandum submitted pursuant to Item 2, the District will provide OCR with documentation showing that the District implemented Item 4, including: (i) the date(s) of the training(s); (ii) a copy of the training agenda(s); (iii) copies of training materials used; (iv) the name of the person(s) who provided the training(s); and (v) a record showing the names and job titles of all persons who received the training(s).

### **General Requirements**

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or Section 504 and Title II and their implementing regulations, 34 C.F.R. Part 104 and 28 C.F.R. Part 35. 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 District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504 and Title II, which were at issue in this complaint.

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

/s/ \_\_\_\_\_  
Superintendent or Designee

August 31, 2022  
Date