

VOLUNTARY RESOLUTION AGREEMENT  
NEW BEDFORD PUBLIC SCHOOL DISTRICT  
OCR COMPLAINT NO. 01-16-1153

In order to resolve OCR Complaint No. 01-16-1153, New Bedford Public School District (the District) assures the U.S. Department of Education, Office for Civil Rights (OCR) that pursuant to the applicable requirements of Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.P.R. Part 104 (Section 504), Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R Part 35 (Title II), it will take the actions listed below.

- I. By **September 30, 2016** (unless a later date is requested by the parent) the District agrees to convene a Section 504 evaluation team meeting for the Student including persons knowledgeable about the Student, Section 504/Title II, the evaluative data, and the placement options available, to determine:
  - a. The Student's eligibility for services under Section 504/Title II; noting that an impairment that substantially limits any major life activity, not just a major life activity related to learning or school, would be considered a disability under Section 504.
  - b. Whether the team needs any additional evaluative data in order to determine eligibility and
  - c. If applicable, what, if any, related accommodations, aids and services are necessary to ensure the eligible Student is provided a Free Appropriate Public Education (FAPE).

Reporting Requirement

- By **October 11, 2016** the District will submit copies of all documentation/correspondence (minutes, notes, reports, decisions, evaluative data, etc.) from the Section 504 evaluation team meeting and determination.
2. By **October 25, 2016**, the District will provide training to District Administrators, including all District Section 504/Title II Coordinator(s) on the provision of a FAPE under Section 504/Title II, including:
    - a. Eligibility criteria under Section 504 and Title II (including information on the ADA Amendments Act);
    - b. Circumstances (including examples) that trigger the District's obligation to conduct an evaluation under Section 504/Title II;
    - c. The District's Section 504 evaluation process and how it interfaces with its individualized health care plan (IHCP) processes; and
    - d. The District's system of procedural safeguards under Section 504, including what it includes, and when and how the system of procedural safeguards is implemented (e.g. when the District's procedural safeguards document should be provided to parents/guardians).

Reporting Requirement

- By **October 26, 2016** the District will submit a copy of the training and an attendance sheet with each attendee's name and position in the District.
3. By **October 10, 2016**, the District will submit for OCR's review and approval, a new or revised standards and procedures for the evaluation and placement of students who, because of disability, need or are believed to need special education or related services. The policy will specifically address students with health related concerns such as food allergies, asthma, diabetes, issues with bowel movements, and other physical or mental conditions which may impact major life activities. The standards and procedures specified in the policy will be applied to all registered students in the district

Reporting Requirement

- By **October 26, 2016** the District will submit to OCR for review and approval a copy of its policy and procedures. The submission will include all related forms, including a statement of parental rights and the District's due process procedures.
4. By **October 26, 2016**, and subsequent to the training listed in item #2 above, the District will develop a notice to disseminate to all parents/guardians at the School regarding:
- a. The District's obligations under Section 504/Title II; with the recognition that an impairment that substantially limits any major life activity not just a major life activity related to learning or school, would be considered a disability under Section 504.
  - b. A brief description of when a student could potentially be eligible for services (thus, triggering an evaluation);
  - c. The name, title and contact information for the District's Section 504/Title II Coordinator(s); and
  - d. Contact information for parents who may have questions/concerns regarding the District's notice.

Reporting Requirement

- By **October 26, 2016**, the District will submit to OCR for approval, its draft notice to parents/guardians at the School.
  - By **November 15, 2016**, the District will provide OCR with documentation evidencing the dissemination of its notice to all parents/guardians of students at the School.
5. By **October 11, 2016**, the District will initiate a review process of all students within the School that currently have IHCPs in effect. The purpose of the District's review process is to determine whether any such students currently receiving services pursuant to an IHCP are eligible under Section 504 for a 504 plan or the protections offered by Section 504.

Reporting Requirement

- By **February 17, 2017**, the District will provide OCR with a copy of all IHCPs reviewed.
6. By **November 17, 2016** the District will promptly initiate the process of a referral for a Section 504 evaluation for each student identified as part of the review process referenced in item #5 above.

Reporting Requirement

- By **February 17, 2017** the District will provide OCR with a copy of all students currently placed in IHCPs referred for a Section 504 evaluation.
7. By **April 13, 2017**, for each student identified as part of the review process referenced in item #5 above and who is referred per item #6 above, the District agrees to convene a Section 504 evaluation team regarding each student including persons knowledgeable about the student, Section 504/Title II, the evaluative data, and the placement options available, to determine:
- a. Each student's eligibility for services under Section 504/Title II;
  - b. Whether the team needs any additional evaluative data in order to determine eligibility and
  - c. If applicable, what, if any, related accommodations, aids and services are necessary to ensure that each eligible student is provided a Free Appropriate Public Education (FAPE).

[Parents/guardians of each student shall also be provided the District's notice of parental rights/procedural safeguards pursuant to Section 504].

Reporting Requirement

- By **May 10, 2017**, the District will report to OCR the outcome of the team meetings required pursuant to provision item #5 and will provide documentation, including:
    - o The names and titles of each meeting participant;
    - o Copies of any and all information the team considered as part of its decision-making;
    - o The team's decisions, including a copy of the Student's Section 504 Plan, if developed; and
    - o Documentation evidencing notice to each student's parent or guardian of the District's system of Section 504 procedural safeguards.
8. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. Part 104, which was at issue in this case.

9. 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 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 as fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. Part 104, which was at issue in this case.
10. 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 a minimum of sixty (60) calendar days to cure the alleged breach.
11. The District understands that OCR will conclude the monitoring of this case when it determines that the District has fully implemented the terms of the Agreement and is in compliance with Section 504 and Title II.
12. This Agreement has been entered into voluntarily by the District and does not constitute an admission that it is not in compliance with Section 504 or Title II or their implementing regulations.
13. The District has designated Kimberli Bettencourt, Executive Director for Special Education and Student Services, with signatory authority to enter into this Agreement on the District's behalf.

/s/ Kimberli Bettencourt  
Kimberli Bettencourt,  
Executive Director for Special Education Services

9/1/16  
Date