

RESOLUTION AGREEMENT
Newark Public Schools
OCR Case Nos. 02-12-1295, 02-14-1149 & 02-14-1343

In order to resolve Case Nos. 02-12-1295, 02-14-1149 & 02-14-1343, Newark Public Schools (NPS) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100; Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 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 (the ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

Definitions

“Closed school” is any NPS school that was closed at the end of school year 2011-2012; specifically, Eighteenth Avenue School, Burnet Street School, Dayton Street School, and Dr. Martin Luther King, Jr. School

“Affected school” is any NPS school that was either closed, closed and reopened as an early childhood center, closed and reopened under charter management, or re-sited at the end of school year 2013-2014; specifically, Alexander Street School (closed and reopened under new charter management as North Star and Uncommon Schools); Bragaw Avenue Elementary School (closed and reopened under new charter management as THRIVE Academy and Life Academy); Chancellor Avenue Annex (closed and reopened as an early childhood center); Eagle Academy (re-sited); Girls Academy (re-sited); Madison Avenue Elementary School (closed and reopened under new charter management as Newark Legacy Charter School); Maple Avenue School (closed and reopened as an early childhood center); Miller Street School (re-sited); Newtown Street School (closed); Roseville Avenue Elementary School (closed and reopened as an early childhood center); West Side High School (closed and converted to Newark Early College and Newark Vocational).

“Transferring students” are any students who attended a new school at the start of school years 2012-2013 and 2014-2015, as a result of the closure, closure and reopening, or re-siting of NPS schools at the end of school years 2011-2012 and 2013-2014. The term does not include students whose school assignment would have changed even if their school had not closed, such as students who graduated from 8th grade at the end of school years 2011-2012 and 2013-2014.

“Receiving school” is any school receiving students as a result of the closure, closure and reopening, or re-siting of NPS schools at the end of school years 2011-2012 and 2013-2014.

Action Item 1 – Assessment of Academic Performance of Transferring Students

By February 29, 2016, NPS will develop and complete an assessment of the academic performance of transferring students. The assessment will compare academic performance of transferring students at the closed/affected school to academic performance of transferring students at the receiving school. The assessment will be based on multiple criteria, including but not limited to a comparison of (a) grades, (b) NJASK performance, (c) attendance, and (d) discipline of transferring students through school year 2014-2015 (or until the student exited the receiving school). NPS will also identify the extent to which there were any delays in transferring students receiving services due to programs moving from a closed/affected school to a receiving school (e.g., Career and Technical Education programs); and/or, whether student/teacher ratios at the receiving schools affected the academic performance of transferring students. Through this assessment, NPS will identify whether any transferring students have suffered any academic deficiencies; and take appropriate steps to remediate such academic deficiencies.

Reporting Requirements:

- a) By December 15, 2015, NPS will submit to OCR, for review and approval, a draft of the proposed assessment of academic performance developed in accordance with Action Item 1. OCR will respond within 30 calendar days.
- b) Within 30 days calendar days of OCR's approval, NPS will complete the assessment.
- c) By February 29, 2016, the NPS will provide to OCR a list of transferring students, including for each student, their race/national origin; the name of the closed/affected school at which the student was enrolled; the name of the receiving school to which the student transferred; whether the student is still enrolled in NPS, and if so, the student's grade level for school year 2015-2016; the results of the assessment conducted in accordance with Action Item 1; and whether, based on the assessment, the student suffered any academic deficiencies after the transfer. If NPS determines that a student has suffered academic deficiencies, NPS will submit to OCR, for review and approval, the plan for remediating the academic deficiencies. OCR will respond within 30 calendar days.
- d) By April 30, 2016, NPS will provide documentation to OCR confirming that it has implemented the action plan to remediate any deficiencies as approved by OCR.

Action Item 2 – Assessment of Transportation Services for Transferring Students

By February 29, 2016, NPS will develop and complete an assessment of the transportation services provided to transferring students. The assessment will, at a minimum, compare the transportation times/distances and the safety of transporting transferring students to the closed/affected school, to the transportation times/distances and the safety of transporting transferring students to the receiving school; and, whether transportation issues affected the ability of transferring students to participate in extracurricular activities at the receiving schools.

Through this assessment, NPS will identify whether any transferring students suffered any adverse effects; and take appropriate steps to remediate such adverse effects.

Reporting Requirements:

- a) By December 15, 2015, NPS will submit to OCR, for review and approval, a draft of the proposed assessment of transportation services developed in accordance with Action Item 2. OCR will respond within 30 calendar days.
- b) Within 30 days calendar days of OCR's approval, NPS will complete the assessment.
- c) By February 29, 2016, the NPS will provide to OCR the results of the assessment conducted in accordance with Action Item 2; and whether, based on the assessment, transferring students suffered any adverse effects. If NPS determines that transferring students suffered adverse effects, NPS will submit to OCR, for review and approval, the plan for remediating the adverse effects. OCR will respond within 30 calendar days.
- d) By April 30, 2016, NPS will provide documentation to OCR confirming that it has implemented the action plan to remediate any adverse effects as approved by OCR.

Action Item 3 – Assessment of Receiving Schools' Facilities and Pupil Capacity

By February 29, 2016, NPS will develop and complete an assessment of the pupil capacity of receiving schools and availability of facilities/resources such as athletic fields, gymnasiums, science labs, libraries, etc. The assessment will, at a minimum, compare pupil capacities and availability of facilities/resources at closed/affected schools, to pupil capacities and availability of facilities/resources at receiving schools. Through this assessment, NPS will identify whether any transferring students suffered any adverse effects; and take appropriate steps to remediate such adverse effects.

Reporting Requirements:

- a) By December 15, 2015, NPS will submit to OCR, for review and approval, a draft of the proposed assessment of the pupil capacity and availability of facilities/resources of receiving schools, developed in accordance with Action Item 3. OCR will respond within 30 calendar days.
- b) Within 30 days calendar days of OCR's approval, NPS will complete the assessment.
- c) By February 29, 2016, the NPS will provide to OCR the results of the assessment conducted in accordance with Action Item 3; and whether, based on the assessment, transferring students suffered any adverse effects. If NPS determines that transferring students suffered adverse effects, NPS will submit to OCR, for review and approval, the plan for remediating the adverse effects. OCR will respond within 30 calendar days.

- d) By April 30, 2016, NPS will provide documentation to OCR confirming that it has implemented the action plan to remediate any adverse effects as approved by OCR.

Action Step 4 – Transferring Students with Disabilities

By December 31, 2015, NPS will convene a group of knowledgeable persons (such as the Child Study Team) to complete an assessment of the continuation of special education and/or related aids and services to transferring students with disabilities, including students with Section 504 plans and individualized education programs (IEPs). The group will determine whether disabled transferring students were provided with appropriate special education and related aids and services in the receiving school; and if not, whether compensatory or remedial services are necessary. If compensatory and/or remedial services are deemed necessary, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond June 30, 2016. NPS will provide each student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

- a) By January 30, 2016, NPS will provide to OCR a list of all transferring students with disabilities currently enrolled in NPS. For each such student, NPS will provide documentation to OCR demonstrating that a meeting was held in accordance with Action Item 4, and the decision as to whether compensatory and/or remedial services are needed. NPS will submit to OCR documents substantiating the group's decision, including but not limited to documentation identifying the participants in the meeting; an explanation for decisions made; the information considered; and a description of and schedule for providing compensatory and/or remedial services (if any) to the student. OCR will review the documentation to ensure that NPS 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) By April 30, 2016, NPS will provide documentation to OCR of the dates, times and locations that any compensatory and/or remedial services were provided to a student consistent with the plan developed in accordance with Action Item 4; including, a description of the services provided and the name(s) of the service provider(s).

NPS understands that OCR will not close the monitoring of this agreement until OCR determines that NPS has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI, at 34 C.F.R. §100.3(a), (b) (1) and (2), Section 504, at 34 C.F.R. §§104.4(a),(b)(1) and (2), and 104.33(a) and (b), and Title II of the ADA, at 28 C.F.R. §35.130(a) and (b)(1), which were at issue in this case. NPS also 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, NPS understands that during the monitoring of this agreement, if necessary, OCR may visit NPS, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether NPS has fulfilled the terms of this agreement and is in compliance with the regulations implementing Title VI, at 34 C.F.R. §100.3(a), (b) (1) and (2), Section 504, at 34 C.F.R. §§104.4(a),(b)(1) and (2), and 104.33(a) and (b), and Title II of the ADA, at 28 C.F.R. §35.130(a) and (b)(1), which were at issue in this case. NPS 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 proceeding to enforce this agreement, OCR shall give NPS written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

November 9, 2015

Representative of NPS

Date