

Resolution Agreement

OCR Complaint #03-14-1159 Downingtown Area School District

To resolve the allegations in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), the Downingtown Area School District (the District) voluntarily enters into this Resolution Agreement (the Agreement) to ensure compliance with the requirements of 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 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35. This Agreement does not constitute an admission of liability on the part of the District, nor does it constitute a determination by OCR that the District violated any of the regulations enforced by OCR.

Action Step 1

The District recognizes its obligations under Section 504 and its implementing regulation, at 34 C.F.R. § 104.33, to provide a free appropriate public education (FAPE) to each qualified individual with a disability within its jurisdiction and 34 C.F.R. § 104.33, which requires appropriate evaluation and placement. By December 15, 2014, the District shall disseminate a memorandum to all administrators and staff in the District who are involved in the delivery of services to students with disabilities attending District schools, including any administrators involved in the provision of transportation services. The memorandum will remind staff that decisions about the educational program of students with disabilities, including transportation needs, should be made by a multidisciplinary team in a manner consistent with the procedural requirements of the regulations implementing Section 504 concerning evaluation, placement and procedural safeguards. The memorandum will also remind staff of its obligation to respond to requests for a disability-related modification to the XXXXXX policy by engaging in an individualized inquiry to determine whether the modification is necessary, and modify the policy unless doing so would constitute an undue financial or administrative burden for the District or a fundamental alteration in the nature of the District's program.

Reporting Requirement

By December 30, 2014, the District shall submit to OCR a copy of the memorandum, a list of the names and titles of the persons who received the memorandum, and an explanation of the manner in which it was distributed.

Action Step 2

By December 15, 2014, the District will convene multidisciplinary team evaluation meetings, a group of knowledgeable persons, XXXXXX (the Students), in accordance with the evaluation, placement and procedural safeguard requirements of 34 C.F.R. Sections 104.35 and 104.36, to determine whether XXXXXX. The District will send a written invitation to Complainant to attend the multidisciplinary team meeting(s) at least ten days in advance of the meeting(s). As part of

this process, the Complainant can invite persons to attend this meeting and will have the opportunity to provide relevant information for consideration by the multidisciplinary team. During this meeting, the team will also determine whether the Students suffered any educational loss during the XXXXXX school year due to the District's alleged failure to provide XXXXXX and, if so, whether this entitles the Students to compensatory and/or remedial educational service.

Within 1 week of its determination, the District will provide the Students' parent/guardian notice of the procedural safeguards including the right to challenge the determinations through an impartial due process hearing. Immediately following this meeting, the District will provide the Complainant with written notice of the outcome of the meeting, via certified mail, with an explanation of its determination, including the reason(s) XXXXXX. If compensatory educational services are determined to be necessary for the Students, the team will develop for each a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond February 1, 2015. If the team determines that no educational loss occurred or that no compensatory services are necessary, the District will provide in its written notice to the Complainant an explanation of its decision. The notice will include a copy of procedural safeguards which explain the Complainants' rights if they disagree with the determinations, in accordance with the requirements of 34 C.F.R. Section 104.36.

Reporting Requirement

By December 30, 2014, the District will provide OCR with documents supporting the decisions of the multidisciplinary team(s). The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Students. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation 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.

The District understands that by signing this Agreement, it agrees to provide data and other information to OCR in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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 of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4, 104.33, 104.35, 104.36, and 104.37, and the regulation implementing Title II, at 28 C.F.R. § 35.130, which are at issue in this complaint.

The District understands that OCR will not close the monitoring until it determines that the District has fulfilled the terms of this Agreement and is in compliance with the with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4, 104.33, 104.35, 104.36, and 104.37, and the regulation implementing Title II, at 28 C.F.R. § 35.130, which are at issue in this complaint.

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 and 100.10) or judicial proceeding 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.

/s/

11/24/14

Superintendent (or designee)

Date