

**Resolution Agreement
Sevier County School District
OCR Complaint #04-14-1459**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against Sevier County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794 *et seq.*, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The District agreed to resolve the issues of this investigation pursuant to Section 303(b) of OCR's Case Processing Manual. Accordingly, to ensure compliance with the above-referenced laws and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions:

Evaluation and Placement Procedures:

1. **By January 15, 2015**, the District will revise and submit to OCR for its review and approval the District's Section 504 and Title II procedures to comply with Section 504 and Title II, and in particular the Section 504 regulations at 34 C.F.R. §§ 104.31 through 104.36 regarding identification, evaluation, provision of a free and appropriate public education (FAPE), reevaluation, and educational placement of students who, because of a disability, need or are believed to need special education or related services.

REPORTING REQUIREMENTS:

- a. **By January 31, 2015**, the District will submit to OCR for review and approval a copy of its revised Section 504 policies and procedures for the provision of a free and appropriate public education to students with disabilities. The policies and procedures will comply with the Section 504 regulations at 34 C.F.R. Sections 104.31 – 104.36.
 - b. **Within 30 days after OCR's approval**, the District will adopt and disseminate its revised evaluation and placement procedures and begin implementation of these procedures.
2. **By May 1, 2015**, and thereafter on an annual basis, the District will publish the revised procedures, developed pursuant to Item #1 above on the District's website, in its schools' handbooks, and in any other publications that contain the District's policies and procedures.

REPORTING REQUIREMENT: By May 31, 2015, the District will provide OCR with copies of any publications including the newly-revised procedures developed under Item #1.

3. **Effective immediately**, and pursuant to Section 504 implementing regulation 34 C.F.R. 104.35, the District will ensure that prior to implementing a disciplinary exclusion of more than ten consecutive or nonconsecutive days against a student with a disability that would constitute a significant change in the student's educational placement, a group of individuals knowledgeable about the Student and the evaluation data will conduct a reevaluation using appropriate evaluation procedures that conform with the Section 504 regulation to determine whether the behavior is caused by or is a manifestation of the student's disability. If the School determines that the behavior was caused by or was a manifestation of the student's disability, the School will not discipline the student for any such behavior.
 - a. **REPORTING REQUIREMENT:** By July 31, 2015, the District will provide a list of all students with disabilities who have been subject to an exclusion from the School for disciplinary reasons for ten or more consecutive or nonconsecutive days during the six months from the date of execution of this Agreement. The list shall include (1) the name of the student excluded, (2) the dates of any exclusions, (3) the date of any manifestation determination hearing conducted, and (4) a summary of the findings made at any such manifestation determination hearing, including whether the underlying behavior was determined to be a manifestation of the student's disability.

Training:

4. By **March 15, 2015** and thereafter on an annual basis, the District will provide training to all School faculty and administrative staff regarding Section 504. At a minimum the training must address:
 - a. The School's revised procedures developed pursuant to Items #1 and #2 above, with specific regard to the requirement to provide a FAPE and to conduct reevaluations prior to implementing exclusions that constitute a significant change of placement in accordance with the regulation implementing Section 504 at 34 C.F.R. §104.35; and
 - b. Section 504 standards regarding the development and implementation of an educational plan for a student with a disability.

REPORTING REQUIREMENT: By **March 30, 2015**, the District will submit to OCR documentation demonstrating the completion of the training for the appropriate faculty and administrators. Such documentation should include: the date(s) of the training session(s); a copy of the agenda for the training; the name, position, and credentials of the trainer(s); and an attendance sheet signed by the participants that indicates their names and titles.

Student-Focused Remedy:

5. **By January 31, 2015**, after providing proper written notice to the Student's parents, a group of knowledgeable persons, including the Student's parent(s), will convene a Section 504 team meeting for the Student and make a determination whether the behaviors that resulted in the Student being sent to alternative school in September 2013 and subsequently suspended through the 2013-2014 school year were manifestations of the Student's disability.

REPORTING REQUIREMENT: **Within 2 weeks** of the reevaluation meeting, the District will submit to OCR documentation showing the date and time of the meeting, the participants in the meeting, an explanation for any decisions made, and the information considered when making its determination.

6. **By January 31, 2015**, after providing proper written notice to the Student's parents, a group of knowledgeable persons, including the Student's parent(s), will determine (1) whether the Student needs compensatory and/or remedial services as a result of time away from school due to infractions that were, pursuant to Item #5 above, determined to be manifestations of the Student's disability, (2) whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide appropriate regular and/or special education or related services throughout the 2013-2014 school year and (3) whether the Student needs compensatory and/or remedial services as a result of any denial of FAPE resulting from any bullying of the Student during the 2013-2014 school year. If so, within one (1) week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond June 1, 2015. The District will provide the Student's parents notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENTS:

- a. **Within 2 weeks** of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the group's decision. 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 Student. 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.

- b. **By July 31, 2015**, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

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 has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulations at 34 C.F.R. §§ 104.33 (a) and (b), 104.35 (a) and (b), and 104.36, as well as the Title II implementing regulation at 28 C.F.R. § 35.130.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulations at 34 C.F.R. §§ 104.33 (a) and (b), 104.35 (a) and (b), and 104.36, as well as the Title II implementing regulation at 28 C.F.R. § 35.130, which were at issue with this case.

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.

This Agreement will become effective immediately upon the signature of the District's Superintendent or his/her designee below.

Superintendent or Designee

Date