

**Resolution Agreement
Osceola County School District, FL
OCR Complaint #04-14-1594**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against Osceola 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:

Procedural Remedies:

Disciplinary Policies and Procedures:

1. By **January 30, 2014**, the District will draft and submit for OCR's review and approval a statement to be included in all policies discussing the discipline of students with disabilities that, upon committing an infraction deemed an expellable offense, students with disabilities will be given the same opportunity as students without disabilities to attend a hearing in front of the School Board during which evidence and witnesses may be presented to challenge, on the basis of innocence or guilt, a disciplinary charge that requires a recommendation for expulsion. Additionally, the District will provide parents/guardians of students with disabilities with written and verbal notice of the ability to attend such a hearing during the student's reevaluation prior to a significant change in placement. The District will also amend its suspension policies in its Student Code of Conduct to indicate that the District will provide a manifestation determination meeting for students with disabilities who are subjected to exclusion from their programs for more than ten consecutive days, or for a total of ten or more days under circumstances that show a pattern of exclusion.

REPORTING REQUIREMENTS

- a. By **February 15, 2015**, the District will submit to OCR its statement developed pursuant to Item #1 above for OCR's approval.
- b. Within **60 days of OCR's approval**, the District will begin implementation of its revised procedures.

Grievance Procedures:

2. By **January 30, 2015**, the District will revise its “Grievance Procedures for Section 504 and American with Disabilities Act” (Grievance Procedures). The revised Grievance Procedures will be submitted to OCR for review and approval. At a minimum, the Grievance Procedures will include:
- a. notice to students, parents, and employees of the procedures, including where complaints may be filed;
 - b. application that the procedures to complaints of discrimination, including harassment, carried out by employees, students, or third parties;
 - c. a provision for prompt, adequate, and impartial investigation of all complaints, including the opportunity for the complainant and subject of the complaint to present witnesses and evidence;
 - d. designated and reasonably prompt timeframes for the major stages of the investigation;
 - e. written notification to the complainant and subject of the complaint of the outcome of the investigation;
 - f. an assurance that remedial action will be taken to address and resolve any found incident of discrimination and to prevent the recurrence of any discrimination will be taken; such remedial action may include, as appropriate, disciplinary sanctions up to and including termination if the harasser is an employee, strategies to protect the individual subject to the harassment any witnesses from retaliation, counseling for the victim of the harassment, other steps to address any impact on the victim of the harassment, any witnesses and the broader student body, and any other necessary steps reasonably calculated to prevent occurrences of harassment; and
 - g. if the District chooses to incorporate an informal grievance procedure, such as mediation, when appropriate,¹ into its procedures, the District’s grievance procedures will make clear that this is a voluntary process and the complainant may choose not to participate in the informal grievance procedure or to withdraw from the process, once begun, and to request that his or her complaint be investigated pursuant to the District’s formal grievance procedures.

REPORTING REQUIREMENTS

- i. By **February 15, 2015**, the District will submit to OCR its revised Grievance Procedures developed pursuant to Item #2 above for approval.

¹ Mediation is not appropriate for allegation of assault.

- ii. Within **60 days of OCR's approval**, the District will begin implementation of its revised procedures.
3. By **August 31, 2015**, and thereafter on an annual basis, the District will publish the policies and procedures, developed pursuant to Items #1 and #2 above, in any publications available to District staff, students, and third parties that contain the District's policies and procedures, including disciplinary and/or grievance procedures.

REPORTING REQUIREMENT

By **September 30, 2015**, the District will provide documentation demonstrating that the District has disseminated such publications in accordance with Item #3 above. The District will submit to OCR a copy of any publication that contains the District's policies and / or Grievance Procedures, as well as the link to each on the District's website.

Training:

4. By **August 31, 2015**, the District will provide training for School faculty and administrators involved in disciplining students, regarding the revised procedures pursuant to Item #1 above and their application to Section 504 and Title II. The District will also provide training for all faculty and administrators involved with disciplining students regarding the revised procedures pursuant to Item #2 above and their application to Section 504 and Title II.

REPORTING REQUIREMENT

By **September 30, 2015**, the District will submit to OCR documentation demonstrating the completion of the respective trainings for the appropriate faculty and administrators regarding the revised policies. This 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.

5. By **August 31, 2015**, the District will provide training for School faculty and administrators involved with grievance processing, including Section 504 Coordinators, on the Section 504/Title II obligation to provide a prompt and equitable resolution of complaints.

REPORTING REQUIREMENT

By **September 30, 2015**, the District will submit to OCR documentation demonstrating the completion of the respective trainings for the appropriate faculty and administrators regarding grievance processing. This 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:

6. **By February 15, 2015**, the District will contact the complainant via letter and email informing her of the opportunity to attend the disciplinary hearing pursuant to Item #1 above. If the District determines that the Student's discipline was a manifestation of the Student's disability and the original decision is overturned, the District must expunge the Student's record of the disciplinary actions that were determined to be a manifestation of the Student's disability.

REPORTING REQUIREMENT

Within **60 days of sending the letter to the Complainant**, the District will provide OCR with a copy of the letter and email sent to the complainant, and will inform OCR if the complainant pursued the option of attending the hearing.

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 Section 504 at 34 C.F.R. §§ 104.35 and § 104.4(a)(b)(1)(i)-(iv) and (vii) and Title II at 28 C.F.R. § 35.130 § 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 regulation at 34 C.F.R. §§ 104.35 and § 104.4(a)(b)(1)(i)-(iv) and (vii) and Title II implementing regulation at 28 C.F.R. § 35.130 § 35.130 which were at issue in 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 representative below.

Superintendent or Designee

Date