

**Resolution Agreement
Anderson County School District, TN
OCR Complaint #04-14-1723**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the Anderson County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance (FFA) from the Department and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. To ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions.

Section 504 Policy and Procedures

1. By March 9, 2015, the District will revise its Section 504 procedures or other procedures for provision of a free appropriate public education to students with disabilities to ensure that changes in District policies and procedures are adopted that have an impact on existing 504 Plans, 504 meetings will be convened in accordance with the Section 504 implementing regulation at 34 C.F.R. §104.35(c) to determine if revisions are needed to 504 Plans to ensure that a free and appropriate public education (FAPE) will be provided. The revisions will clarify that (a) District policy changes may not impede the provision of FAPE services; (b) Section 504 or individualized education programs (IEP) team meetings will be held prior to application of policy changes that have an impact on an existing 504 plan or IEP, in order to ensure the provision of FAPE services does not lapse; and (c) parents or guardians cannot be required to come to schools or participate in field trips to provide FAPE services.

REPORTING REQUIREMENT: By March 30, 2015, the District will submit the revised procedures to OCR for its review and approval.

2. By May 4, 2015, or within 30 days of receipt of OCR's approval, whichever is later, the District will (a) adopt, publish, and disseminate the revised Section 504 procedures; and (b) provide notification to all District staff members of the revisions to the procedures, their responsibility to ensure that policy changes will not effectively deny students FAPE services.

REPORTING REQUIREMENT: By June 2, 2015, the District will provide evidence to OCR showing that the revised procedures were published and disseminated and that notification of the revised procedures was provided to District staff members. The District will also provide OCR with copies of the revised procedures and demonstrate how they were adopted.

Student-Focused Remedies

3. By March 9, 2015, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to implement the Student's Section 504 plan from August 6, 2014 to October 6, 2014. If so, within one 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 May 1, 2015. The District will provide the Student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.
4. The District will also begin implementing the Student's 504 Plan which requires the school nurse to provide the afternoon blood sugar test, instead of a non-licensed healthcare staff member. It will also remove any provision requiring that a parent attend the Student's field trips to provide a FAPE-related service.

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 April 13, 2015, the District will provide OCR with evidence that it provided the notices described in Item (3) to the Complainant.
- (c) By March 9, 2015, the District will send OCR information that the school nurse has been conducting the Student's afternoon blood sugar test, as required by the Section 504 Plan.
- (d) By July 20, 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).

Training Remedies:

5. By March 9, 2015, and thereafter on an annual basis, the District will provide training to appropriate District staff, including District and school level administrators, Section 504 Coordinators, Counselors and teachers, regarding the requirements of Section 504 and

Title II related to: (a) convening a Section 504 meeting, in accordance with the Section 504 implementing regulation at 34 C.F.R. §104.35(c) prior to applying new policies that have an impact on an existing 504 plan or IEP in order to ensure that the provision of FAPE services does not lapse; (b) implementing existing 504 Plans until revised 504 Plans are appropriately adopted; (c) the District's obligation to fully implement Section 504 plans and not require parents or guardians to come to schools or participate in field trips to provide FAPE services; and (d) the prohibition against retaliation.

REPORTING REQUIREMENT: By March 30, 2015, the District shall provide evidence that training was provided as described above in Item #5. Documentation provided by the District will also show the names of the District employees who participated in the training session, an agenda, and information on the background and qualifications of the trainer with respect to Section 504 and Title II.

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 Section 504 and its implementing regulation at § 104.35(a), and Title II and its implementing regulation at 28 C.F.R. § 35.130, which were at issue in this case.

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 and its implementing regulation at § 104.35(a), and Title II and its implementing regulation at 28 C.F.R. § 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.

Superintendent or designee

Date