

**Burke County School District, TN  
Resolution Agreement Complaint  
#04-15-1201**

Burke County School District (District) agrees to resolve the allegation of discrimination on the basis of disability contained in complaint number 04-15-1201 filed with the U.S. Department of Education, Office for Civil Rights (OCR). The District submits this Resolution Agreement (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. § 12131, and its implementing regulation at 28 C.F.R. Part 35.

This Agreement has been entered into voluntarily by the District and does not constitute an admission by the District that it is not in compliance with Section 504 or Title II or their implementing regulations.

**Student Focused Remedies**

- I. **By August 31, 2015**, the District will invite the Student back to the District to evaluate him for compensatory and transitional education services related to the Student's memory problems associated with his disability.

**Reporting Requirement:** By September 7, 2015, the District will provide OCR with a copy of the letter described in Item #I.

2. **By September 30, 2015**, or within 2 weeks of the meeting described in Item #I, if the Student accepts the District's offer described in Item #I, after providing proper written notice to the Student, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services and transitional services for the memory problems associated with his disability. If so, within 1 week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services and transitional services to the Student. The District will provide the Student 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 completion of Item #2, 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 and transitional 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 November 30, 2015, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services and transitional services (if any) were provided, a description of what was provided, and the name(s) of the service provider(s).

#### Training:


3. By January 30, 2016, the District will initiate annual training of District principals, teachers, Section 504 Coordinators, Special Education Directors, counselors, and any other persons involved in the identification, evaluation and placement of students with disabilities or the implementation of Section 504 plans/Individual Education Programs, on the Section 504 and Title II requirements concerning evaluations of students with disabilities or suspected disabilities pursuant to the Section 504 implementing regulation at 34 C.F.R. § 104.35. The evaluation portion of the training should also include instruction that if the District chooses to use an IEP through IDEA to satisfy its Section 504 obligations to students with disabilities, then the IDEA evaluation must occur in a timely manner consistent with the requirements of the Section 504 implementing regulation at 34 C.F.R. § 104.35.

**Reporting Requirement:** By February 15, 2016, the District will provide OCR with documentation showing that it has provided training in accordance with Item #3. The documentation will include the date of the training, a copy of the agenda, a copy of handouts or any PowerPoint materials used, the name and qualifications with respect to knowledge of Section 504/Title II of the individual providing the training, and the names and titles of the individuals who attended the training.

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 regulation at 34 C.F.R. §§ 104.4, 104.33, and 104.35, and 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 District has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulation at 34 C.F.R. §§ 104.4, 104.33, and 104.35, and the Title II 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.

  
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District Superintendent  
or designee

11/11/11  
Date