

**Resolution Agreement
Fayette County School District
Complaint #04-15-1224**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint filed against Fayette County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, 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. This resolution has been entered into voluntarily between the parties and does not constitute a finding or admission that the District is not in compliance with Section 504 and Title II and/or their implementing regulations. 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:

Student-Focused Remedy

1. **By August 17, 2015**, after providing proper written notice to the Student's parents, the District will convene a group of persons knowledgeable about the Student, the evaluation data, and the placement options, including the Student's parents, to determine what compensatory education or other remedial services, if any, the Student requires as a result of the District's failure to (1) implement the Student's Individualized Education Program (IEP) beginning in November 2014 and provide the specific services identified in this complaint and (2) timely provide assistive technology and psychology evaluations for the Student after Complainant requested them in March 2014. The group will also determine whether the XXXXXXXXXXXXXXXXXXXX Consultation completed by the District in February 2015 met the procedural requirements regarding evaluations set forth in Section 504 and Title II. The group will develop a written plan for providing the Student with any compensatory education or other remedial services deemed necessary with a completion date not to extend beyond December 1, 2015. Additionally, the plan will: identify the nature and amount of the services to be provided at no cost to the Student's parents, who will be providing the services and when, and become part of the Student's IEP. The District will provide the Student's parents with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

REPORTING REQUIREMENT: By **September 17, 2015**, the District will submit to OCR documentation showing implementation of Item 1 above, including a copy of any meeting minutes, a copy of any plan developed for the Student, the team's decision regarding the XXXXXXXXXXXXXXXXXXXX Consultation, including the data the team considered in making its decision. Additionally, provide documentation of any input provided by the Student's parents and documentation showing that procedural

safeguards were provided to the parents. Also provide any other documentation relevant to the determinations reached in accordance with Item 1 above. Should the District determine that no compensatory education or other remedial services were necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.35 and 104.36, in making these determinations.

After reviewing the proposed services, OCR may question whether the District's determination regarding the provision of compensatory and/or remedial services adequately addresses the failure to provide appropriate services under the IEP. If so, OCR will, prior to approving the District's decision and proposed services, raise its concern with the District and request additional documentation to support the group's educational determination regarding the sufficiency of the prescribed compensatory and/or remedial services. If applicable, within 2 weeks of OCR's request for additional information, the District will submit to OCR documentation in support of the group's educational determination regarding the sufficiency of the any prescribed compensatory and/or remedial services about which OCR raises concerns.

Training:

2. By **August 17, 2015**, and annually thereafter, the District will provide training to current administrative and teaching staff at Fayetteville County High School regarding Section 504 legal standards concerning provision of FAPE and the District's Section 504 policies and procedures with specific regard to the requirement to provide a FAPE in accordance with the regulation implementing Section 504 at 34 C.F.R. §104.33(a) and (b).

REPORTING REQUIREMENT: By **September 17, 2015**, the District will submit to OCR documentation demonstrating the completion of the training for the appropriate District faculty, staff, 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.

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. §§ 104.33, 104.35, and 104.36 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

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Section 504 implementing regulation at 34 C.F.R. § 104.33, 104.35, and 104.36, 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.

Superintendent or Designee

Date