

Resolution Agreement
OCR Docket 05141247
Sawyer School District #16
OCR Docket 05141255
Souris Valley Special Services

The Sawyer School District #16 (District) and Souris Valley Special Services (SVSS) hereby agree to resolve the above-referenced complaints with the U.S. Department of Education, Office for Civil Rights (OCR). The District and SVSS submit this Agreement to ensure their compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

By entering into this Resolution Agreement, the District and SVSS do not admit any violation of Section 504 or Title II with regard to the allegation that the School and SVSS failed to conduct a timely assessment to determine assistive technology programming. Nothing contained in this Resolution Agreement shall be considered, construed, or used as an admission of wrongdoing, liability, statutory or regulatory violation, or any other illegal or improper act, by the District or SVSS. Furthermore, the District and SVSS agree, without regard to liability, to take corrective action to achieve compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a) and 104.33 and Title II at 34 C.F.R. §35.130(a), which were at issue in this case. The District and SVSS agree to the following:

1. By November 1, 2014, an impartial third party will provide training on the Section 504 regulation at 34 C.F.R. § 104.33, which requires the District and SVSS to provide a free appropriate public education (FAPE) in accordance with the requirements of 34 C.F.R. § 104.33, regarding the implementation of students' individualized education plans (IEPs) to 1) the District's Superintendent and 2) all personnel responsible for developing and implementing IEPs for District students or students in other Districts served by SVSS, including but not limited to District and SVSS administrators, teachers, and special education teachers or service providers.

REPORTING REQUIREMENT: By November 15, 2014, the District and SVSS will each provide OCR documentation demonstrating its implementation of item #1. Specifically, the District and SVSS will provide OCR the names of individuals who attended the training session(s), sign-in sheet(s) for the training session(s), the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the agenda and other materials disseminated at the training session(s).

2. By October 21, 2014, after providing proper written notice to the Complainant, the District and SVSS will convene a group of knowledgeable persons to determine whether Student A was denied a free appropriate public education during the 2013-14 school year as the result of any failure to provide him with assistive technology programming.. Within one week of the group's determination, the group will develop a plan for providing timely compensatory and/or remedial services, if any, with a completion date

not to extend beyond June 30, 2015, or a time agreed upon by the Complainant and the District and SVSS. The District and SVSS will provide the Complainant with notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENTS:

- A. Within two weeks of the decision as to whether compensatory and/or remedial services are needed, the District and SVSS will jointly submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, a narrative statement providing an explanation for the Team's decisions, a description of the information that the Team considered, and a description of and schedule for providing any compensatory and/or remedial services to Student A by the District and SVSS. OCR will, prior to approving the District's and SVSS's decision and proposed services, review the documentation to ensure that the District and SVSS 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 January 30, 2015, the District and SVSS will jointly provide documentation to OCR of the dates, times, and locations that any compensatory and/or remedial services were provided to Student A, a description of what was provided (including receipts of AT purchases on behalf of Student A), and the name(s) of the service provider(s).

The District and SVSS understand that by signing this Agreement, they agree to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District and SVSS understand that during the monitoring of this agreement, if necessary, OCR may conduct an on-site visit, interview employees, and request such additional reports or data as are necessary for OCR to determine whether the extent to which the terms of this Agreement have been fulfilled and whether the District and SVSS are in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a) and 104.33 and Title II at 34 C.F.R. § 35.130(a), which were at issue in this case.

The District and SVSS understand that OCR will not close the monitoring of this Agreement until OCR determines that all terms have been fulfilled and both the District and SVSS are in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a) and 104.33 and Title II at 34 C.F.R. §35.130(a), which were at issue in this case.

The District and SVSS understand and acknowledge 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 and SVSS written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

For the District

Date

For SVSS
