

Voluntary Resolution Agreement
Fairfax County Public Schools
OCR Complaint Nos. 11-14-1143 and 11-14-1244

Fairfax County Public Schools (the Division) agrees to fully implement this Voluntary Resolution Agreement (Agreement) to resolve Office for Civil Rights (OCR) Complaint Nos. 11-14-1143 and 11-14-1244. This Voluntary Agreement does not constitute an admission by the Division of a violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II) or any other law enforced by OCR.

1. By September 30, 2014, after providing proper written notice to the Complainant, a group of knowledgeable persons, including the Complainant, will determine:
 - a. Whether the Division failed to provide the Student with XXXX during the 2013-2014 school year;
 - b. Whether the Division failed to consider the Complainant's request that the Student receive large print reading materials as a related service under Section 504 during the 2013-2014 school year; and
 - c. Whether the Student is eligible to receive large print reading materials as a related service.

At the meeting, if it is determined that the Student was denied physical access to her classes and/or the Division failed to consider whether the Student should receive large print reading materials, the group will determine whether the Student needs compensatory and/or remedial services as a result. If so, within two weeks 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 January 30, 2015. The Division will provide the Complainant notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirement: Within three (3) weeks of the decision as to whether compensatory and/or remedial services are needed, the Division will:

- a. Submit to OCR documents supporting the group's decision.
- b. Should the Division determine that no compensatory and/or remedial services are necessary, the Division will provide a written explanation of the reasons for that determination, along with any supporting documentation.
- c. The documentation submitted shall include identification of the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing compensatory and/or remedial services (if any) to the Student.

OCR will, prior to approving the Division's decision and plan for providing the proposed services, review the documentation to ensure that the Division 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.

Reporting Requirement: Within fifteen (15) calendar days after OCR's review and approval of the information submitted as described above, the Division will submit to OCR a copy of the letter or similar notice given to the Complainant that informs her of the outcome (i.e., any determination made and the rationale for the determinations) of the meeting.

Reporting Requirement: If applicable, by March 2, 2015, the Division 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).

2. By October 30, 2014, the Division will conduct its own investigation to determine whether it retaliated against the Student as alleged in OCR Complaint No. 11-14-1143. In conducting its own investigation, the Division will contact the Complainant to request information necessary to investigate her allegation and will apply the applicable legal standards to determine whether retaliation occurred. Specifically, the Division will consider:
 - a. Whether a *prima facie* or initial case of retaliation is established: (1) whether the Complainant engaged in a protected activity; (2) whether the Division took materially adverse actions against the Student as alleged in OCR Complaint No. 11-14-1143; and (3) whether there is a causal connection between the protected activities and adverse actions; and
 - b. If an initial case of retaliation is established, the Division will then consider whether there is a legitimate non-retaliatory reason for the adverse actions and whether that reason is a pretext for retaliation.

If the Division substantiates the retaliation allegation, then it will provide appropriate remedies to the Complainant and the Student (e.g., providing compensatory educational opportunities, revising the Student's grade report, training School personnel on the prohibition against retaliation, etc.).

Reporting Requirement: By November 17, 2014, the Division will provide documentation to OCR of its internal investigation and determination for OCR's review and approval. This documentation will include:

- (a) efforts in contacting the Complainant to obtain information necessary to conduct the investigation,
- (b) a copy of all the information the Division considered, and
- (c) the Division's legal analysis, and any proposed remedies.

Reporting Requirement: If applicable, within thirty (30) calendar days of OCR's approval of any proposed remedies, the Division will provide documentation to OCR that it implemented the approved remedies.

The Division 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 Division understands that during the monitoring of this Agreement, if necessary, OCR may visit the Division, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Division has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.

The Division 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 Division written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

The Division understands that OCR will not close the monitoring of this Agreement until OCR determines that the Division has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.

_____/s/_____
Superintendent
Fairfax County Public Schools

_____/8/16/2014_____
Date