

## **RESOLUTION AGREEMENT**

### **Isle of White County Schools**

Complaint No. 11-15-1204

Isle of White County Schools (the Division) voluntarily enters into this resolution agreement (Agreement) with the Office for Civil Rights (OCR) to resolve Allegation 1 of Complaint No. 11-15-1204. This Agreement does not constitute an admission of discrimination or wrongdoing by the Division and OCR has made no findings of non-compliance under Section 504 or Title II or any other law enforced by OCR. Implementation of the following commitments will resolve all issues in the complaint.

1. Within 10 school days following the Student's re-enrollment with the Division during the 2015-2016 school year, the Division will hold a Section 504 meeting during which the Student's Section 504 team will meet to consider and document its consideration of whether the Student's Section 504 plan requires any revisions. When considering whether the Student's Section 504 plan requires any revisions, the Student's Section 504 team will consider a variety of sources in evaluating the Student's disability related needs, including any recommendations submitted by the Student's allergist. The 504 team will document and carefully consider the information obtained from all sources, including all available medical information regarding the student's peanut allergy, the nature and severity of the Student's XXXXt allergy, and the types of exposures that can result in the Student having a food allergy-related reaction (e.g., whether such reactions are most likely to occur due to ingestion or topical or airborne exposure) and ensure that the plan is developed by a group of individuals knowledgeable about the Student, evaluation data, and placement options. The Section 504 team will also consider and document its consideration of whether the Student's Section 504 plan should include the following provisions:
  - a. Procedures governing food allergy risk management in the Student's classroom and common use rooms (e.g., the cafeteria, library, computer labs, gymnasium, and art and music rooms), and during recess periods, bus transportation, field trips, and extracurricular, and school-sponsored activities. Additionally, the Section 504 team will consider the need to develop procedures that may provide continuity of access to epinephrine and will identify staff responsible for overseeing the continuity of access.
  - b. Emergency response procedures for addressing the proper handling and administration of epinephrine in the event of an anaphylactic or other serious allergy-related reaction, identifying the staff responsible for emergency responses. These procedures should address each aspect of the Student's school day.

The Division will provide the Student's parents with an 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

Within 5 school days of the Student's Section 504 meeting, the Division will provide for OCR's review and approval a copy of the revised Section 504 plan for the Student, along with copies of meeting minutes or similar documentation from the Section 504 meeting held to revise the plan, including names and titles of all participants. The documentation will include the Section 504 team's consideration of a. and b. above and, where these items are not fully incorporated into the Section 504 plan, an explanation of the team's rationale for not including them.

2. Within 5 school days of the Student's re-enrollment with the Division, all division staff members who are primarily responsible for the Student will receive training on food allergies and the implementation of the Student's Section 504 plan. The Student's Section 504 Case Manager and/or School Nurse or other trained staff will provide one-on-one training regarding the student's food allergies and Section 504 plan to substitute teachers assigned to the Student's classroom in the morning before school begins. Substitute teachers assigned to the Student's classroom also will receive a packet of information prior to the start of the school day that includes: (a) information regarding the student's food allergies; (b) the student's current Section 504 plan; (c) contact information for the Student's Section 504 case manager for the substitute to direct any questions regarding the Student's needs and Section 504 plan; (d) contact information for the school nurse to have as a reference in case of an emergency.

Reporting Requirement:

10 school days following the completion of the training session for staff members primarily responsible for the Student, the Division will provide for OCR's review and approval the dates of the above-referenced training session, copies of the training materials, names and titles of participants, and the name/title and qualifications of the individual(s) providing the training.

3. Upon the Student's re-enrollment with the Division, at least one individual who is adequately trained in recognizing the signs and symptoms of anaphylaxis, and who can administer epinephrine, will be at the Student's School during all regular school hours and during periods where the student is participating in a pre-arranged afterschool extra-curricular activity. The parent will provide the student's 504 case manager with reasonable, advanced notice (no less than 5 school days) if the student signs up for an extra-curricular activity so the appropriate arrangements can be made. For other school-sponsored activities and events, a person trained in recognizing the signs and symptoms of anaphylaxis and who can administer epinephrine will be made available to the Student if the complainant(s) provides the school division with reasonable, advanced notice of the student's attendance prior to the event. If the parent(s) will be attending the school-sponsored activity or event with the Student, the parent(s) will be responsible for supervising and providing epinephrine to the Student.

Reporting Requirement:

Within 10 school days of the Student's re-enrollment, the Division will provide for OCR's review and approval a list of School staff (by name and title) who are trained in recognizing the signs and symptoms of anaphylaxis and who can administer epinephrine.

4. Should the Student re-enroll in the Division during the 2015-2016 school year and provided the parents give written consent to disseminate a letter during the 2015-2016 school year, IWCS will notify the parents of all students that are in the student's classes of the following:
  - (a) One or more students in the class have severe allergies to XXXX products;
  - (b) If exposed to a XXXX, through contact or ingestion, these students may develop a life-threatening reaction that requires emergency medical treatment;
  - (c) Strict avoidance of XXXX is the only way to prevent such reactions; and
  - (d) Request that parents send foods/snacks that are free of XXXX.

Reporting Requirement:

Within 10 school days of the Student's re-enrollment with the Division, the Division will provide for OCR's review and approval a copy of proposed communications to comply with item 4 above. Within 15 school days of OCR's approval of the communications, the Division will provide documentation to OCR verifying that it has communicated the information to School staff, parents, and students.

5. By November 1, 2015, the Division will meet to determine what amount of compensatory and/or remedial services is necessary for the Student for the time period the Student did not attend school at the end of the 2014-2015 school year. As appropriate, the team will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **December 1, 2015**. The plan will identify the nature and amount of the services to be provided at no cost to the student's parents, by whom and when. The Division 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.

Reporting Requirements:

- a. Within 10 school days of the above-referenced meeting, the Division will submit to OCR a copy of the meeting minutes or similar documentation from the meeting referenced in Action Item 5 above; including an explanation for decisions made, and, if applicable, a description of and schedule for offering any compensatory and/or remedial services (if any) to the Student. OCR will review the documentation submitted 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.
- b. Within 10 school days of the above-referenced meeting, the Division will provide the parent (or legal guardian) with written notice of the outcome of the meeting, including a description of the educational loss, if any, and provide, if applicable, the

student and parent with a written offer regarding the Division’s provision of the compensatory educational services to the student (including a description of how the services will be made available and a proposed timetable).

- c. If the student and parent or legal guardian accepts the Division’s offer, the Division will make available the services to the student within fifteen (15) school days from the date of its receipt of the student’s acceptance of the Division’s offer, or at a later date, if agreed upon by the student and parent or legal guardian. The compensatory education program shall be delivered in a manner so as not to hinder the delivery of any services that are required by the student’s current educational program.
- d. By January 16, 2015, the Division will provide documentation to OCR of the dates, times, and locations that any compensatory and/or remedial services were provided, and the name(s) of the service provider(s).

The Division understands that OCR will not close the monitoring of this Agreement until it determines that the Division has fulfilled all of its terms and is in compliance with Section 504 and Title II with respect to the issues addressed in this Agreement. During the monitoring of this Agreement, OCR may visit the Division, interview staff and students, and request such additional reports and data as are necessary for OCR to determine whether the Division has fulfilled the terms of this Agreement and is in compliance with Section 504 and Title II with respect to the issues addressed in this Agreement. In addition, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement, but before initiating such proceedings, OCR will give the Division written notice of the alleged breach and a minimum of sixty (60) calendar days within which to cure it.

By: \_\_\_\_\_/S/\_\_\_\_\_  
Director of Special Education & Special Programs  
Isle of White County Schools

\_\_\_\_\_9/24/15\_\_\_\_\_  
Date