

RESOLUTION AGREEMENT
Virginia Beach City Public Schools
OCR Case No. 11-16-1338

In order to resolve the allegation raised in U.S. Department of Education, Office for Civil Rights (OCR) Case No. 11-16-1338, Virginia Beach City Public Schools (the Division) assures OCR, that pursuant to 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 (ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, it agrees to fully implement this Resolution Agreement (Agreement).

Action Item A

By March 15, 2017, Academy personnel and members of the Division's Office of Student Support Services will receive training regarding evaluation procedural requirements of Section 504, at 34 C.F.R. Section 104.33, 104.35(a). The training will emphasize the Division's obligations under Section 504 to identify and evaluate students who, because of a disability, need or are believed to need special education and/or related aids and services and to conduct reevaluations prior to a significant change in placement.

Reporting Requirements:

- a. The Division and OCR staff will select a mutually agreeable date to train Academy personnel. By agreement of the Division and OCR staff, OCR will provide and distribute training materials in advance of the selected training date (TBD before March 15, 2017). OCR staff will provide training to XXXX personnel and representatives from the Division's Office of Student Support Services.
- b. Within 45 calendar days of the training provided by OCR staff to XXXX personnel and members of the Division's Office of Student Support Services, the Division will provide documentation to OCR demonstrating that training was provided consistent with Action Item A above, including: (a) the name(s) of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; and, (d) copies of any training materials disseminated.

Action Item B

By January 15, 2017, the Division will convene a group of knowledgeable persons (e.g., a Committee on Special Education, Child Study Team, or Section 504 Team) for the purpose of conducting an evaluation of the Student consistent with the requirements of 34 C.F.R. 104.35(c). In conducting an evaluation of the Student, the Division must: review and carefully consider all relevant testing and other evaluative data, including data related to the Student's behavior and any and all documented disciplinary infractions, to make a determination about whether the Student qualifies for eligibility as a student with a disability under Section 504; document its process and determination, ensuring that the determination conforms with Section 504's definition of disability, and with the other requirements of 34 C.F.R. § 104.35(c) to draw

information from a variety of sources; have the decision made by a group of persons knowledgeable about the Student, the evaluation data, and the placement options; and ensure that the information presented at the evaluation is documented and carefully considered.

If the group of knowledgeable persons determines that the Student meets Section 504 eligibility, the group will consider which related aids and services are necessary to ensure that the Student's individual educational needs are met as adequately as the needs of students without disabilities are met, including any compensatory services to address the timeframe during which the Division failed to evaluate the Student during the 2015-2016 school year, as well as to address any and all instances wherein the Student's disability impacted his behavior and resulted in any disciplinary infractions/sanctions (i.e., suspensions and expulsions).

Reporting Requirement: Within 30 days of conducting an evaluation of the Student as described in Action Item B above, consistent with the requirements of 104.35(c) of the regulation, the Division will submit for OCR's review and approval the notes or minutes of the evaluation and eligibility team meetings, the evaluative data reviewed, and a copy of any completed individualized education program (e.g., IEP, Section 504 Plan, Behavioral Intervention Plan (BIP), or other plan) developed for the Student.

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 regulation implementing Section 504 and Title II, at 28 C.F.R. Part 35 and 34 C.F.R. Part 110.

The Division understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the Division understands that during the monitoring of this Agreement, 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 regulation implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which was 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.

By: _____/S/_____ Date: _____11/9/16_____

Dr. Aaron Spence
Superintendent or Designee
Virginia Beach Public Schools