

Voluntary Resolution Agreement
Utica Community Schools
OCR Docket #15-15-1300

The Utica Community Schools (the District) submits this Voluntary Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and ensure compliance with Section 504 of the Rehabilitation Act of 1973, 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, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. This Agreement does not constitute any admission of wrongdoing on the part of the District or any finding by OCR suggesting or concluding same. Instead, this Agreement merely reflects the District's willingness to voluntarily address the concerns raised in the subject complaint. The District agrees to take the following actions:

VOLUNTARY ACTION STEPS REGARDING STUDENT

1. By **December 19, 2015**, the District agrees to:
 - a. Reconvene the Student's Individualized Education Program (IEP) team and develop an IEP, and if necessary, a behavior plan, that contain the disability-related services necessary to provide the Student with FAPE during the 2015-2016 school year. In developing the IEP and any behavioral plan, the District will consider all relevant information about the Student, including but not limited to, documentation and information provided by the Student's parents, and information from the Student's 2015 independent evaluation(s), as provided to the District.
 - b. The IEP team will consider whether the Student requires compensatory education or other remedial services. Such determination by the IEP team will be based on an assessment of whether the Student was properly classified and/or provided with appropriate disability-related services during the 2014-2015 and 2015-2016 school years, including whether the Student was provided with appropriate disability-related aids and services related to the Student's behavior.
2. The Student's parents will be provided a meaningful opportunity to provide input into any decisions related to items 1(a) and (b) above. In the event that the Student's parents are unable to attend the IEP team meeting, the District will contact the Student's parents and provide them with a meaningful opportunity to provide input before any decisions are finalized. The Student's parents will also be provided with a copy of the IEP, any behavior plan, written notice of any 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.

If the IEP team determines that compensatory education services are appropriate, it will develop a written plan that lists each service that will be provided, the date(s) each service will be provided, and the title and qualifications of the individual who will provide each service. The District will provide the Student's parents with written notice

of the IEP team's determinations and, if applicable, a copy of any plan to provide compensatory education.

REPORTING: By **January 31, 2016**, the District agrees to provide OCR with documentation demonstrating its compliance with Voluntary Action Steps 1 and 2 above, including a list of who attended the IEP team meeting (names and titles); documentation regarding what was discussed at the meeting; documentation regarding the determinations made at the meeting; a copy of any revised IEP and behavior plan; documentation regarding whether the Student was found to require compensatory education services and if applicable, a copy of the written plan for compensatory education services.

Should the District determine that compensatory education or other remedial services are not necessary, the District will provide a written explanation of the reasons for those determinations, 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. §§ 104.34, 104.35 and 104.36, in making these determinations.

The District shall also provide documentation that it notified the Student's parents in writing of the IEP team's determinations, provided them with a copy of the revised IEP and any behavioral plan, and if applicable, provided them with a copy of the plan for compensatory education. The District will also provide OCR with documentation showing that it provided the Student's parents with notice of their procedural safeguards.

If the IEP team determines that compensatory education or other remedies services are appropriate, by **April 30, 2016**, the District agrees to provide documentation to OCR verifying that any compensatory education services and/or other remedial actions were offered, in writing, to the Student's parent, and provided to the Student, including the dates, times, and locations that the compensatory education or other remedial services were provided to the Student, and the name(s) and title(s) of the service provider(s). Should the services be rejected by the Student, the District will provide OCR with documentation of such rejection from the Student's parent(s).

VOLUNTARY ACTION STEPS DISTRICT-WIDE

3. By **May 15, 2016**, the District agrees to provide Section 504 and Title II training, to the District's Section 504/ADA compliance officers, special education director, the District's psychologists and all staff at the District's Beacon Tree Elementary School who are directly involved in the identification, evaluation, reevaluation and placement of students with disabilities. The training shall be provided by a source with expertise in Section 504 and Title II and shall minimally include: Section 504 and Title II's prohibition against discrimination and different treatment on the basis of disability, Section 504 and Title II's requirements regarding the identification, evaluation, re-evaluation, and placement of students with disabilities; Section 504 and Title II's requirement that parents be provided with a meaningful opportunity to provide input into decisions regarding the identification, evaluation, re-evaluation and placement of students with disabilities, Section 504 and

Title II's requirement that parents and guardians be provided with notice of their procedural safeguards with respect to decisions regarding the identification, evaluation, re-evaluation and placement of students with disabilities; and Section 504 and Title II's requirement that students with disabilities be provided with a free and appropriate public education (FAPE).

It is expressly understood and acknowledged that the District's agreement to perform the outlined training is not an admission that the District has failed to follow the protocols of Section 504 and/or Title II in this matter or with respect to any other student at any time. Instead, the District has agreed to provide the outlined training as part of its ongoing commitment to ensure that District employees are aware of and fully comply with all requirements of Section 504 and/or Title II at all times.

REPORTING: By May 31, 2016, the District agrees to provide OCR with documentation of its compliance with Action Step 3, including the date(s) of the training, the name, title and qualifications of the individual providing the training, a copy of any materials referenced or distributed during the training, and list with the names and titles of the individuals who attended the training.

General Requirements for OCR Agreements

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 Section 504 and its implementing regulation at 34 C.F.R. § § 104.4, 104.33, 104.35, 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 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 Section 504 and its implementing regulation at 34 C.F.R. § § 104.4, 104.33, 104.35, 104.36 and the Title II implementing regulation at 28 C.F.R. § 35.130.

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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/
Superintendent or Designee

11/16/15
Date