

GEORGIA DEPARTMENT OF EDUCATION, GEORGIA
Resolution Agreement
OCR Complaint #04-11-1267

The U.S. Department of Education, Office for Civil Rights (OCR), opened the above referenced complaint against the Georgia Department of Education (GA DOE) pursuant to 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. § 12131, and its implementing regulation at 28 C.F.R. Part 35 which prohibit discrimination on the basis of disability. The GA DOE on behalf of itself and the 180 Local Educational Agencies (LEA) under its authority submits this Resolution Agreement (Agreement) to voluntarily resolve the above-referenced complaint and to ensure compliance with Section 504 and Title II. This resolution has been entered into voluntarily and does not constitute a finding or admission that the GADOE or any LEA is not in compliance with Section 504 and Title II and its implementing regulation. Accordingly, to ensure compliance with Section 504 and Title II and its implementing regulation and to resolve the issues of this investigation, the GADOE voluntarily agrees to take the following actions.

The GADOE understands that by signing this Agreement, it agrees to provide documents and other information in a timely manner in accordance with the reporting requirements set forth in this Agreement. Further, the GADOE understands that during the monitoring of this Agreement, if necessary, OCR may visit the GADOE and/or any LEA, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the GADOE has fulfilled the terms of this Agreement and is in compliance with the Section 504 implementing regulations at 34 C.F.R. §§ 104.4(a) and (b)(1)(i)-(vii), 104.33, 104.35 and 104.61; and the Title II implementing regulations at 28 C.F.R. §§ 35.130 and 35.134. Accordingly, the GADOE agrees to implement the actions described below:

Corrective Action Steps

Section 504 Policy and Procedure

1. a. The GADOE will draft or revise its policy and procedures with respect to actions regarding the identification, evaluation, or educational placement of persons under Section 504 who because of disability need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parent or guardian and representation by counsel and a review procedure. GADOE's Section 504 policy and procedures will be used as a model for participating LEAs to adopt or modify in accordance with their respective procedures for formulating policy. Specifically the procedural safeguards will inform the parents or guardians that, under Section 504, they have the right to request an impartial hearing without having to avail themselves of other resolution avenues if they wish to challenge the identification, evaluation and placement of a student with a disability under Section 504.

Hereinafter these revised procedural safeguards shall be referred to as “GADOE Model Section 504 Policies and Procedures.”

b. Within thirty (30) days of receiving final approval from OCR, GADOE will (i) implement and utilize the Model Section 504 Policies and Procedures as a part of its educational programs and (ii) forward the approved GADOE Model Section 504 Policies and Procedures to each LEA listed on the attachment to this Agreement, hereinafter referred to as “participating LEAs.”

REPORTING REQUIREMENT:

- a. **By October 31, 2011**, the GADOE will submit to OCR the GADOE Model Section 504 Policies and Procedures for review and approval by OCR
 - b. **Within 30 days of receipt of OCR’s necessary changes to the GADOE Model Section 504 Policy and Procedures or by December 31, 2011 whichever is later**, GADOE will incorporate the changes identified by OCR and submit to OCR the GADOE Model Section 504 Policies and Procedures for final approval.
 - c. Within thirty (30) days of receiving final approval from OCR, GADOE will provide OCR documentation demonstrating that it has forwarded the approved GADOE Model Section 504 Policies and Procedures to each LEA listed on the attachment to this Agreement, hereinafter referred to as “participating LEAs.”
2. **By March 31, 2012**, or within 120 calendar days of OCR’s approval, whichever is later, each participating LEA, will forward to OCR evidence showing that the LEA has implemented policies consistent with the GADOE Model Section 504 Policies and Procedures or otherwise modified or adopted policies and procedures to comply with Section 504 as approved by OCR. The LEAs will be notified that the evidence should include, but not be limited to, a written description of how the LEA provides notice, a written description or copy of the notice it provides to parents and guardians, a description of its impartial hearing process, and the identity of the entity or hearing officer that the LEA contracts with to provide impartial hearings, or the procedure by which a hearing officer will be obtained.
 3. The GADOE Model Section 504 Policies and Procedures will be available on the GADOE website. Each LEA will make its Section 504 Policies and Procedures available on its websites, where available, and in printed material including student handbooks. If the LEA website refers to the GADOE website a direct link to the procedural safeguards should be provided. **By February 1, 2012**, GADOE will obtain for each participating LEA, where available, web links to the materials located on its website.

REPORTING REQUIREMENT:

By February 1, 2012, the GADOE will provide OCR web links to the GADOE Model Section 504 Policies and Procedures on its website. The GADOE will ensure that its website contains the Section 504 procedural safeguards and that they are easily accessible.

By March 31, 2012, or within 120 calendar days of OCR's approval, whichever is later, GADOE and the participating LEAs will provide to OCR the participating LEAs' web links to the materials related to Section 504 procedural safeguards.

Training

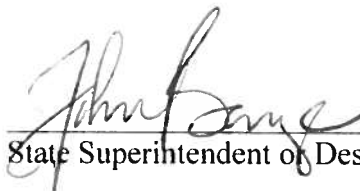
4. By June 1, 2012 the GADOE and/or the participating LEAs will make GADOE's and each LEA's key administrators and critical staff involved in the oversight for or identification, evaluation and placement of students under Section 504 and Title II available for training from OCR at a mutually agreeable time and place. The training will provide an overview of the regulatory requirements of Section 504, Title II and the Americans with Disabilities Act Amendment Act of 2008 (ADAAA). Thereafter the GA DOE and LEAs will incorporate training on Section 504 and Title II and the ADAAA with its regularly scheduled annual in-service training.

REPORTING REQUIREMENT:

By June 20, 2012, GADOE and the participating LEAs will provide OCR with a list of names, positions and/or job titles of persons who attended the training.

The GADOE understands that OCR will not close the monitoring of this Agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a) and (b)(1)(i)-(vii), 104.33, 104.35 and 104.61; and the Title II implementing regulations at 28 C.F.R. §§ 35.130 and 35.134, which were at issue in this case.

This Resolution Agreement will become effective immediately upon the signature of the GADOE's designee below.



State Superintendent of Designee

9-30-11

Date