

Training for Fairfax County Public Schools'

12.8.22 Staff Training

Dawn Schaefer 00:00

Thank you for joining us this afternoon, um, to share this information with you regarding the resolution agreement that Fairfax County Public Schools entered into, um, regarding the compensatory services for students with disabilities during the COVID 19 pandemic. Our purpose today really is to unpack this agreement with you all and joining us this afternoon are, um, school based administrators who supervise special education, as well as special education department chairs and Section 504 school based coordinators. So thank you all for making time to be here.

Dawn Schaefer 00:41

First, I want to recognize that you all have done amazing things. Um, the last two years and eight months, almost two years and nine months, have really pushed us and tested us all in ways we never could have even imagined, and, um, I want to recognize that. I also want you to know that we're going to be working to ensure that you will have the support that you need, um, in order to accomplish the work that is, um, laid out in the agreement.

Dawn Schaefer 01:14

Um, as a little bit of background, um, OCR opened directed investigations into several school divisions and one state in January of 2021. And those included Los Angeles, Seattle, the state of Indiana, and Fairfax. Um, at this time, OCR has entered into agreements with Los Angeles in April of 2022, and Fairfax. Um, this presentation as well as, um, this recording will be available. and, so, um, links are live. There is no news regarding Seattle or Indiana, so that tells us they have not entered into a resolution agreement at this time. I just realized I'm not showing this show showing the slideshow. There we go.

Dawn Schaefer 02:09

Um, again, OCR open what's called a directed investigation. Ah, this was not the result of a complaint. This was the result of, um, quote, disturbing news reports, um, which was in the letters that OCR sent to all of those education agencies. Um, and really, it is about the free appropriate public education of students with disabilities, um, including both students with 504 plans, as well as IEPs.

Dawn Schaefer 02:39

We did agree to resolve the directed investigation, um, by voluntary voluntarily entering into this resolution agreement. Um, the agreement does address violations and concerns that OCR identified. Um, there is a letter of resolution as well as the agreement that are publicly available and those links are at the end of this, um, presentation.

Dawn Schaefer 03:07

Um, there are five components, ah, to this resolution agreement. Ah, the first component is that we will have a designated administrator, um, who is overseeing this. That person is called the plan administrator. Um, that person has not been, um, identified yet, and we hope that will happen shortly, and we'll talk a little more about that.

Dawn Schaefer 03:35

We also have to create a plan for delivery of compensatory education with specific components included, um, including the criteria for determining whether FAPE was provided, tracking the meetings as well as the services provided, and then provision of staff training and stakeholder outreach, as well as parent guardian outreach.

Dawn Schaefer 04:03

Item three is really about the criteria used for determining compensatory education.

Dawn Schaefer 04:11

Um, and then item four is about the tracking and it's it's pretty specific, and we'll get into those items.

Dawn Schaefer 04:18

And then item five is about that division training and outreach. So let's talk about some details.

Dawn Schaefer 04:26

And when everyone's take a breath, and we're sharing the information, there will be more, um, specific training, uh, coming, and you'll see some of those details as we move through. Again, this language is directly from the agreement. Um, I, it is publicly available, but I think that, um, we thought that it would be great to unpack it for you so that you understand more about what we're talking about and the specifics that are being required.

Dawn Schaefer 05:03

So we will designate a plan administrator. Um, that person needs to have section 504 and Title II expertise per the plan as per the agreement. The job description is due to OCR tomorrow and must be approved by OCR. Within 21 days of their approval, um, we will need to have this person in place and send the information, um, regarding their contact to OCR.

Dawn Schaefer 05:36

The plan. Um, part of that is that we have to determine whether students with a disability received a FAPE for what's called the pandemic period, which is April 14th of 2020 through June 10th of 2022. We're also required to make individualized determinations for each student with a disability regarding any compensatory education that may be owed. We also need to, um, emphasize that decisions regarding compensatory education are distinct from recovery services, um, and that includes uh procedural safeguards under Section 504 and IDEA. We also have to create a plan that will describe for everyone, um, what we will do to consider, um, and provide, uh, those compensatory education needs. So the plan, um, is pretty well prescribed by the Office for Civil Rights and by the agreement. Um, the plan includes the criteria for determining whether FAPE was provided and whether compensatory

education is required, um, including the criteria that those IEP teams and those 504 knowledgeable committees will use.

Dawn Schaefer 07:08

Um, the plan will also include, um, the tracking mechanism. Uh, we are working to develop that tracking mechanism right now. Um, utilizing tools that we already all use, and so that, um, that training will be coming as well. Um, we also have to plan for, um, community outreach, and that will include, um, some specific language regarding, um, how these determinations are made. Um, all of these things are due to OCR tomorrow, um, and so we are working to pull these items together to submit for approval.

Dawn Schaefer 07:58

Part three is really, very deeply into the criteria around compensatory education. So we will provide written notice to all parents of students who are currently in FCPS, who have a 504 or an IEP, that we'll be having a meeting by the end of the school year. Each one of those teams will make a determination regarding whether or not that student requires compensatory education. And the questions that have to be considered or also proscribed.

Dawn Schaefer 08:38

The first question is, Did we fail to provide the student what they needed according to what was in effect for the student at the beginning of March of 2020? Um we also have to determine as part of that, did the student receive what they were supposed to receive? Um, again, I asked that folks, please mute your mics. Thank you very much. Did they receive what they were supposed to receive? And there's a piece in here about whether, um, that's very specific that services that were provided by parents do not count as services that FCPS provided. So if, ah, for instance, um, a child required maybe hand-over-hand or individualized assistance, and the parent is who sat with the child, we wouldn't be able to say the child received what they needed because you provided it, Mom. It was still the school divisions responsibility because it was outlined in the student's plan.

Dawn Schaefer 09:53

Another item is to provide the parent or guardian access to anything that we have that was data during the pandemic period regarding services or, um, progress, um, and that will be obtained via FERPA request. And then, um, we also need to make sure, um, that we provide, uh, procedural safeguards. That's item C. Procedural Safeguards really do outline a parent's, um, right to challenge any determinations and make any appeals or disputes.

Dawn Schaefer 10:37

The second question that needs to be asked is, Were changes made to the student's IEP or 504 plan during this pandemic period? Remember, that's April of 2020 through June of 2022, and that includes TLPs, virtual IEPs or anything else that resulted in lesser services being provided to the student. And then specifically for students with IEPs, um, was the status goal progress impacted by, um, remote learning? Um, and then the team's IEP teams need to consider the student's present level of functioning, um, their rate of progress prior to the pandemic, and then what had been provided, um, prior to the pandemic.

Dawn Schaefer 11:33

For students, um, who didn't receive what they needed to receive, the IEP team or the 504 committee will need to make that determination regarding what compensatory services the student needs, um, and the language that's there is very specific, um, to return the student to the position that the student would be in if the student received the services that met their individual needs. Um, so it's really about, um, what would they have need, what do they need in order to make up for what was missed? And then the team needs to figure out what was considered, um, regarding, um, determining that compensatory education.

Dawn Schaefer 12:30

Item three is that the team needs to develop a plan for providing the compensatory education to the student. Um, the team can consider recovery services that were provided, um, but the recovery services would need to be based on that, um, student's individualized needs and have been decided individually for the student. Um, if those services do not address the student's individualized needs, and were not decided individually for the student, they cannot be counted as compensatory services. And finally, um, the team needs to determine an appropriate and reasonable timeframe, um, for the delivery of those services.

Dawn Schaefer 13:24

The next item that's required is the provision of procedural safeguards, whether those are IEP procedural safeguards, or section 504 procedural safeguards, that is part of our process. Um, we also will need to provide the parent, um, with what process they will need to follow if they are wanting to be reimbursed for their out-of-pocket expenses that were incurred during the pandemic period. Um, and we are developing that process now, um and guidance for you all as well. Or how to handle those those requests.

Dawn Schaefer 14:06

So, all of this, um, is due, um, to OCR for review and approval by tomorrow. Um, the written notification for families, the public statement, um all those drafts need to be sent to OCR tomorrow, so we are working on that, on wrapping up that today, um and then everything will need to be sent out, um, to families, um, within 30 calendar days, and it will also need to be translated. Um, part of this would be that, um, for students who are still here, we will be convening IEP or 504 teams. Um, for students who have left at FCPS whether it's because they've graduated, or they've enrolled in a private school, or they've moved, we will contact all the families that we can, um anyone who we have a forwarding address for or contact information for, and we'll do that centrally. Those families who are no longer FCPS, students will need to let us know that they would like a meeting, um and then meetings will be held. So we will hold meetings for students who are currently enrolled, and we will hold meetings upon request for students who are not currently enrolled.

Dawn Schaefer 15:38

Part of our communication will be the process for teams to determine, um, compensatory services, and then the process for, um, requesting, ah, reimbursement. The other thing that we will need to do was provide Prior Written Notice following, um, each meeting within 10 business days. Um, we have a template that is due to OCR for review and approval tomorrow that we are currently working to finish

up. I recognize that our 504 folks, you may need a little more support in this area, because this is not something you do on a regular basis, um, and so we will, we will work to give you that support that you may need. Um, we also, um, will need to report quarterly regarding, um, prior written notice, um, and those compensatory service decisions, um, to OCR.

Dawn Schaefer 16:50

Item four is the data tracking. Um, we do need to develop a system no later than January 17th. Um, we are in a good place with that and I hope that we'll have it, um, ready to go prior to then. Um, we do have a walkthrough on that tomorrow. Um, but we will need to provide training to, um, all of you on how to do this, um, no later than March 1st. We anticipate doing that much sooner than March 1st. Um, we need to let OCR know that this system is developed by February 1st, and then we have to provide documentation of the training on data tracking by March 1st, um and so that will require I anticipate that that training, um, we will need sign in sheets and those kinds of things. Um, we also will need to submit the name and contact information for, um, our internal FCPS person, um, who is responsible and knowledgeable about the train, um, about the tracking system by February 1st. Um, and then quarterly, we will need to provide OCR with report regarding, um, our our prior written notices and, um, regarding, um, the number of compensatory education meetings, and I anticipate, um, regarding the services that have been provided as well. Um, we will also need to provide a random sampling of up to 100, um, IEP or 504 plans, um, and prior written notices, um, to OCR for their review each quarter.

Dawn Schaefer 18:48

And finally item five, ah, we will meet with OCR on a quarterly basis. We also will be providing, um, you all with further training about this, um, beginning at the January 9th department chair meeting. Um, and the items that must be included, um, are here, and, um, obviously it will be more in depth and then for bullets but this is what we are required to include in the training. Um, and we will need to, um, provide within 10 days of OCR's is approval of our big plan that's due tomorrow, um, a draft of the written guidance and training materials. And then within 75 school days, we have to provide documentation that we have provided these trainings.

Dawn Schaefer 19:50

There's an outreach plan as well. Um, we must make a public statement within five calendar days of the approval of the plan and that is to all parents and guardians regarding this, uh, compensatory education consideration per the OCR agreement. Um, we do have specific points of contact identified, um, my office, the office of special sducation procedural support, the Parent Resource Center, the ombudsman's office, as well as the plan administrator. The other requirement is that the plan administrator will document and track and address those concerns that come in. Um, , and this is why we have developed the OCR2022resolution@fcps.edu, um, email address. Um, again, the plan administrator will will coordinate outreach. Um, we will have three community public meetings about this plan, um, that will occur, um, hopefully starting in January, but they must occur within 90 business days of, uh, November 29, which is the date that we executed the agreement.

Dawn Schaefer 21:20

And finally, we are, ah, required to create a public facing website, um, that links to the plan and other, uh, items. Um, that public statement is due tomorrow and it is, um, also being finished up this

afternoon. Um, and we must provide OCR with copies of any, um, slides are written materials that will be used at those presentations by December 22. Um, the dates of the public meeting must be provided by January 9th. We have to provide evidence that those meetings occurred by March 15, um, and then, um, we have to provide the content that will be on our website by December 22nd, um, and then post it within 15 days of approval.

Dawn Schaefer 22:20

Um, finally, OCR will be looking for the plant administrator to provide, um, information regarding, um, ah, other resolution processes or other concerns that have come in, ah, to them twice a year.

Dawn Schaefer 22:45

So right now, to, to summarize, um, we are working on outreach, um, to everyone, um, and we started with our internal stakeholders as well as, um, our unions, and, um, our parent groups this week, um. We have shared information with, um, Dr. Reid's leadership team as well as the group I just mentioned, principals today and department chairs and SBCs and administrators who supervise special education this afternoon. We will need to, um, hold meetings, ah, to consider compensatory services, um, and we will need to monitor our progress, um, in those determinations in those services. Um, this is a quick timeline for you. Um, you'll see that this week and next week, um, we're really holding these informational meetings about the plan, um, and the agreement, and then we'll have three public meetings, um, starting in January.

Dawn Schaefer 24:08

Next steps. Um, we will be appointing a plan administrator. Um, we'll making a public statement. We'll be providing that written notice. We'll be launching the website, ah, we'll be scheduling those public meetings, we'll be providing professional development, um, again, the January 9th department chair meeting, um, will be, um, your opportunity to receive initial training on this. Um, we also will be developing launching and training on the tracking system. Ah, we recognize that this is a heavy lift, um, and so we'll be adding a third summer clinic site this summer, um, to help with the load for meetings, um, be that meetings that get pushed to summer because you're holding these meetings or other things. Ah, these, again are publicly available, um, and here are the links, um, to, um, the letter of resolution, OCR's press release, our statement, and then, um, the resolution itself. Thank you all so much for joining us this afternoon.