

RESOLUTION AGREEMENT
Virginia Department of Education
OCR Case No. 11-23-4044

The Virginia Department of Education (VDOE) agrees to fully implement this Resolution Agreement to resolve the allegation investigated in Office for Civil Rights (OCR) Case No. 11-23-4044. This Agreement does not constitute an admission by the VDOE of a violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), or any other law enforced by OCR.

Action Item 1 – Future Integrated Reading and Writing (IRW) Stand-alone Field Test

The VDOE will issue an internal memorandum to all staff who work on the IRW before distributing to schools for administration any future stand-alone field tests stating that it will provide each stand-alone field test in a format that meets the individualized needs of students with disabilities, including students with audio or visual impairments. This may include providing stand-alone field tests in paper format, Braille, large print, and/or audio formats.

Reporting Requirement:

By October 6, 2023, the VDOE will provide OCR with a copy of the memorandum and evidence that it was distributed to all internal staff who work on the IRW.

Action Item 2 – Spring 2023 IRW Stand-alone Field Test Results

Before using the results of the stand-alone field test, the VDOE will provide OCR with a document analyzing whether/how its exclusion of some students with auditory and/or visual disabilities impacted the results of the stand-alone field test. This analysis must include, the total number of students who were excluded as a result of an auditory or visual disability, if possible; the total number of students who took the stand-alone field test in Spring 2023; an explanation of how the results of the stand-alone field test are aggregated; an explanation of how the data from the results is going to be used; and any conclusions about how the failure of some students with auditory or visual impairments to take the stand-alone field test may have impacted the overall results.

If the VDOE's analysis indicates that the exclusion of these students with disabilities resulted in a denial of a benefit, the VDOE may, allow students with auditory or visual impairments who were prohibited from initially taking the stand-alone field test because of their disability to take the stand-alone field test before using the results in any manner. If this option is possible and exercised by the VDOE, the stand-alone field test will be administered to the students based on their individualized needs as determined by a group of knowledgeable persons. After taking the stand-alone field test, the results will be incorporated into the VDOE's assessment of the stand-alone field test.

If it is not possible for the VDOE to identify the students with auditory or visual impairments who were prohibited from initially taking the stand-alone field test because of their disability so that

they may be administered the stand-alone field test, VDOE will not be able to use the results of the stand-alone field test.

Reporting Requirements:

- a. The VDOE will provide to OCR, for its review and approval its analysis done under Action Item 2 by October 6, 2023. If approved, the VDOE may use the results of the stand-alone field test.
- b. If the VDOE's analysis indicates that the exclusion of some students with auditory and/or visual disabilities impacted the results of the stand-alone field test, and the VDOE determines that it will exercise the option to offer the stand-alone field test to such students in order to use the results of the stand-alone field test, then:
 - i. by December 11, 2023, or at a later date agreed upon in writing by OCR and the VDOE, the VDOE will provide OCR with a document outlining: (a) the name or identification number of the individual taking the stand-alone field test, if this information is available; (b) the individual's disability, if this information is available; (c) whether the individual was allowed to take the exam; (d) if not, the reason the individual was not given this opportunity; and (e) if so, the specific accommodation offered to the individual.
 - ii. By February 1, 2024, or at a later date agreed upon in writing by OCR and the VDOE, the VDOE will provide evidence indicating that it incorporated the results of these stand-alone field tests into the VDOE's overall assessment of the initial stand-alone field test.

Action Item 3 – Training

The VDOE will provide training to all internal staff involved in the design and administration of the IRW stand-alone field test on the contents of the memorandum outlined in Action Item 1 as well as the requirements of Section 504 and Title II. The training will emphasize the requirement that no qualified individual with a disability be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under a recipient's programs or activities on the basis of disability.

Reporting Requirements:

- a. By October 15, 2023, the VDOE will submit to OCR, for OCR's review and approval, a copy of the proposed training materials and the name(s), position title(s), and qualifications of the individual(s) who will conduct the training.
- b. Within 30 calendar days of receiving OCR's approval, the VDOE will conduct the training and provide verification to OCR, including: (a) the name of the individual(s) who conducted the training; (b) the date(s) of the training session(s); (c) all training

materials; and (d) a sign-in sheet with the names, signatures, and position titles of the VDOE personnel who participated in each training session.

By signing this Agreement, the VDOE agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. During the monitoring of this Agreement, if necessary, OCR may visit the VDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the VDOE has fulfilled the terms of this Agreement.

The VDOE understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the VDOE is in compliance with the terms of the Agreement and with Section 504 and its implementing regulation at 34 C.F.R. Part 104 and Title II and its implementing regulation at 28 C.F.R. Part 35.

The VDOE understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice for judicial proceedings to enforce the specific terms of this Agreement and the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the VDOE written notice of the alleged breach and 60 calendar days to cure the alleged breach.

By:


VDOE Superintendent

Date:

9/25/23