

## **RESOLUTION AGREEMENT**

### **Alexander Central School District**

#### **Case No. 02-16-1100**

In order to resolve Case No. 02-16-1100, Alexander Central School District (the District) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100; 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.

#### **Action Item 1: Occupational Therapy**

By July 30, 2016, the District will convene a group of knowledgeable persons, including the complainant, consistent with the requirements of the regulation implementing Section 504 (such as the committee on Special Education (CSE), relevant district administrators, and/or other such groups of individuals) to review Bornhava Special Education School's (the School's) provision of occupational therapy services to the Student from September 9, 2015, to November 6, 2015, pursuant to the Student's Individualized Education Programs (IEPs) for school year 2015-2016, and determine whether counseling, compensatory or remedial services are necessary for the Student for any services he missed. If counseling, compensatory and/or remedial services are deemed necessary, the group will develop a plan for providing timely counseling, compensatory and/or remedial services, with a completion date not to extend beyond September 30, 2016.

#### **Reporting Requirements:**

- a) By July 30, 2016, the District will provide to OCR the decision as to whether counseling, compensatory and/or remedial services are needed following the meeting held in accordance with Action Item 1. The District will submit to OCR documents substantiating the group's decision, including but not limited to documentation identifying the participants in the meeting; an explanation for decisions made; the information considered; and a description of and schedule for providing any counseling, compensatory and/or remedial services to the Student. OCR will review the documentation 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.
- b) By September 30, 2016, the District will provide documentation to OCR of the dates, times and locations that any counseling, compensatory and/or remedial services were provided to the Student consistent with any plan developed in accordance with Action Item 1; including, a description of the services provided and the name(s) of the service provider(s).

## **Action Item 2: Investigation**

By July 30, 2016, the District will complete an investigation of the complainant's complaints that staff at the School discriminated against or harassed the Student on the basis of his race and/or disability, or in the alternative retaliated by subjecting the Student to harassment during the Student's enrollment at the School. The investigation of the complainant's complaints will involve, at a minimum, the following: providing the complainant an opportunity to provide to the District information in support of her complaints; conducting a detailed review of all information provided by the complainant to the District; providing the complainant with an opportunity to identify any relevant witnesses; interviewing School staff and other witnesses to the alleged conduct, as appropriate; and, making a determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports by a preponderance of the evidence a finding that discrimination, harassment, or retaliation occurred. The outcome of the investigation will be communicated to the complainant and the School in writing. In the event that the District's investigation substantiates the complainant's complaints, the District has chosen to sever all contractual and other arrangements with the School regardless of whether the School is willing to take action to discipline the alleged harasser and/or take other corrective measures; the District acknowledges that OCR is not requiring that the District sever its relationship with the School in such an instance.

### **Reporting Requirements:**

- a) By August 15, 2016, the District will submit to OCR a report documenting the investigation, including who was interviewed; what information witnesses provided; and the outcome of the investigation. The District will also provide to OCR a copy of all documentation obtained during the course of the investigation, and documentation demonstrating that written notice of the outcome was provided to the complainant and the School.
- b) In the event that the District's investigation substantiates the complainant's complaints, then by August 31, 2016, the District will provide documentation to OCR demonstrating that it has severed all contractual and other arrangements with the School.

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 the regulations implementing Title VI, at 34 C.F.R. § 100.3, Section 504, at 34 C.F.R. §§ 104.4, 104.33 and 104.61, and the ADA, at §§ 28 C.F.R. 35.130 and § 35.134, which were at issue in this case. The District also 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 the regulations implementing Title VI at 34 C.F.R. § 100.3, Section 504, at 34 C.F.R. §§ 104.4, 104.33 and 104.61, and the ADA, at 28 C.F.R. §§

35.130 and § 35.134, which were at issue in this case. 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 proceeding to enforce this agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

June 6, 2016

/s/

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Date

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Kathleen Maerten, Superintendent  
Alexander Central School District