

Resolution Agreement
Burkburnett Independent School District
OCR Complaint No. 06-16-1578

The Burkburnett Independent School District (BISD) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the BISD commits to the following actions, consistent with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), 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. § 12132, and its implementing regulation, at 28 C.F.R. Part 35. The BISD is committed to complying fully with Section 504 and Title II, and, accordingly, it has voluntarily agreed to take the steps outlined in this Agreement. This Agreement does not constitute an admission by the BISD that it discriminated or otherwise engaged in any wrongdoing. The BISD hereby voluntarily commits to the following:

Action Item 1

Section 504 and Title II Training

The BISD will provide training to [X---phrase redacted---X] staff regarding its obligations pursuant to Section 504 and Title II, to provide a free and appropriate public education to all qualified students with disabilities residing within its jurisdiction. The training shall include, but not be limited to, the following topics: 1) proper documentation of disciplinary removals and suspensions for students with disabilities in all systems or methods of recordkeeping employed by the BISD and 2) the manifestation determination requirements for students with disabilities when a potential change in placement is contemplated. The training will be conducted by individuals knowledgeable about the laws and issues pertaining to disability discrimination, as well as the evaluation and reevaluation of students who are or are believed to be disabled.

Reporting Requirements

- A. By **June 1, 2017**, the BISD will submit to OCR for review and approval, its proposal for complying with Action Item 1, above. Specifically, the BISD will provide to OCR the name(s) and credentials of the individual(s) who it proposes to conduct the training session(s), and copies of the proposed materials the BISD intends to use at the training session(s).
- B. Within **60 days** of OCR's approval of the individual(s) and materials referenced in Reporting Requirement 1(A), the BISD will provide the training listed in Action Item 1: Section 504 and Title II Training.
- C. Within **30 days** of the completion of the training referenced in Reporting Requirement 1(B), the BISD will provide OCR with documentation demonstrating that it has timely completed Action Item 1 above. Specifically, the BISD will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Action Item 1, the date(s) and time(s) the training session(s) occurred, the

name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

Action Item 2

Discipline Referral Form

The BISD will revise its Discipline Referral Form (DRF) to include: 1) a clear checkbox indicator for whether a student is a qualified individual with a disability under Section 504, 2) a clear checkbox indicator for whether a student disciplinary action requires a manifestation determination prior to the administration of any such discipline, and 3) space to document the date of any scheduled manifestation determination.

Reporting Requirements

- A. By **June 1, 2017**, the BISD will submit to OCR for review and approval, its proposal for complying with Action Item 2, above. Specifically, the BISD will provide to OCR with the revised DRF that satisfies the requirements of Action Item 2.
- B. Within **60 days** of OCR's approval of the revised DRF in Reporting Requirement 2(A), the BISD will disseminate the revised DRF to staff.

Action Item 3

Review of STAAR Test Preparation

The BISD will conduct a review of the assignments, lessons, and any other materials related to the BISD curriculum for the [XXXX XXXX] STAAR examination that were provided to the Student while the Student [X---phrase redacted---X], to determine if the Student received the same instructional preparation that [XXXX] classmates at [X---phrase redacted---X] received in advance of the STAAR examination.

Reporting Requirements for Action Item 3

- A. By **May 1, 2017**, the BISD will submit to OCR for review and approval, its determination under Action Item 3 above. Specifically, the BISD will provide to OCR its report on the instruction the Student received while serving [X---phrase redacted---X] and its determination on whether the Student received the same level of instruction [XXXX] would have received at [X---phrase redacted---X].
- B. If BISD's review determines that the Student did not receive the same instruction as students [X---phrase redacted---X], such determination will be addressed at the meeting detailed in Action Item 4 below.

Action Item 4

Admission, Review, and Dismissal (ARD) Meeting

The BISD agrees to convene a meeting of a group of knowledgeable persons, as defined by Section 504, to review information from a variety of sources (which will be documented and carefully considered) and determine whether the Student needs compensatory and/or remedial services as a result of any failure on the part of the BISD to hold a manifestation determination review prior to [X---phrase redacted---X]the Student [XXXX XXXX XXXX].

If the group determines that the student needs compensatory and/or remedial services, and/or remediation regarding administration of the STAAR exam to the Student, within 1 week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond four months from the date of the meeting of the group of knowledgeable persons. The BISD will provide the student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements

A. By **June 1, 2017**, the BISD will submit to OCR a report documenting when a group of knowledgeable people was convened to consider the student's possible need for compensatory services, in accordance with Section 504. Within 2 weeks of the decision as to whether compensatory and/or remedial services are needed, the BISD will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation of the decision made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the student. OCR will, prior to approving the BISD's decision and plan for the proposed services, review the documentation to ensure that the BISD 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.

After reviewing the proposed services, OCR may question whether the BISD's determination regarding the provision or compensatory services adequately addresses any prior failure to provide appropriate services under the student's prior plan. If so, OCR will, prior to approving the BISD's decision and proposed services, raise its concerns with the BISD and request additional documentation to support that group's educational determination regarding the sufficiency of the prescribed compensatory and/or remedial services.

B. Within two weeks from the time in which the BISD completed any compensatory and/or remedial services, the BISD will provide documentation to OCR of the dates, times and locations that the compensatory and/or remedial services were provided, a description of what was provided, and the names of the service provider(s).

Action Item 5

Removal of Disciplinary Action from Permanent Record

The BISD will remove the following from the Student's permanent record: 1) [X---phrase redacted---X], and 2) any disciplinary actions (e.g., suspensions) taken against the Student where the BISD failed to provide the required manifestation determination review.

Reporting Requirements

- A. By **May 1, 2017**, the BISD will submit to OCR for review and approval, its proposal for complying with Action Item 5, above. Specifically, the BISD will provide to OCR with the student's revised permanent disciplinary record, and with notations of what disciplinary actions were removed to satisfy the second component of Action Item 5.

The BISD understands that OCR will not close the monitoring of this Agreement until OCR determines that it has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI, Section 504, and Title II.

The BISD understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements contained herein. Further, the BISD understands that during the monitoring of this Agreement, if necessary, OCR may visit the BISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the BISD has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title VI, Section 504, and Title II.

The BISD further 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 shall give the BISD written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

Tylor Chaplin, Superintendent
Burkburnett Independent School District

Date