

Resolution Agreement
Liberty Elementary School District
Complaint No. 08-15-1079

In order to resolve the open allegations in Case Number 08-15-1079, filed against Liberty Elementary School District (District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504) and its implementing regulation at 34 Code of Federal Regulations (C. F. R.) part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, the District agrees to implement the following Resolution Agreement.

During the course of OCR’s investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR’s *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District’s decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

1. By **August 30, 2015**, after providing proper written notice to the Student’s parent, a group of knowledgeable persons, including the parent, will convene a Section 504 Team to:
 - a. Evaluate and determine whether the Student suffered any significant academic loss or any discipline related actions due to the District’s failure to evaluate the Student in a timely manner; and
 - b. If the Section 504 team determines that the Student suffered such losses, the team will determine the amount, level, and manner of compensatory education the District will provide to the Student in order to address the lack of a free and appropriate education from 2012 through 2015.

Reporting Requirement 1:

Within **5 days** of completing the requirements of this item, the District will provide OCR written documentation that it has completed this item. Documentation will include:

- a. A sign-in sheet of attendees including titles;
- b. Documentation of the record of review of the Student’s academic losses; present levels of functioning; final grades for the 2014 - 2015 school year, and input from the Complainant;
- c. If deemed necessary, a detailed explanation of compensatory education that will be provided to the Student;

- d. The name(s) of the service provider(s);
- e. Time frames for the provision of compensatory education to include start dates and ending dates; and
- f. If appropriate, a copy of the Student's compensatory education plan.

Should the District determine that no compensatory education or other remedial services were necessary; the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted 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, and notify the District when it has completed this review.¹

2. The District will offer to reimburse the Complainant for the psychological evaluation she obtained for the Student if the Complainant provides receipts or billing statements reflecting her out-of-pocket expenses for that evaluation and offer to provide a complete psycho-educational evaluation of the Student, that adheres to the requirements of the regulation implementing Section 504 at 34 C.F.R. § 104.35, at no cost to the Complainant, followed by a meeting of appropriate knowledgeable persons including the Complainant to consider the results of the evaluation and other relevant information about the student to determine appropriate placement.

Reporting Requirement 2:

By **August 30, 2015**, the District will provide documentation to OCR of the completion of this Term.

3. The District will review and revise its Section 504 and Title II grievance procedures to address complaints by parents, guardians and students, as required by Section 504 and Title II implementing regulations at 34 C.F.R. § 104.7(b) and 28 C.F.R. § 35.107(b). The District will ensure that these procedures provide for the prompt and equitable resolution of complaints alleging disability discrimination and will include the following:
 - a. Notice of the grievance procedures to parents, guardians, students and employees, including where complaints may be filed, that is easily understood, easily located, and widely distributed;

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the team described in provision 1 proposes compensatory services or remedial actions *and* those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the District of its concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

- b. Application of the grievance procedures to complaints alleging disability discrimination or harassment by employees, students, or third parties;
- c. Adequate, reliable, and impartial investigation of complaints, including the opportunity for the complainant and accused to present witnesses and evidence;
- d. Designated and reasonably prompt time frames for the major stages of the grievance process, as well as the process for extending timelines;
- e. Written notice to the complainant and accused of the outcome of the complaint; and
- f. An assurance that the District will take steps to prevent recurrence of any disability discrimination and to correct its discriminatory effects on the complainant and others, if appropriate.

Reporting Requirement 3:

By **September 30, 2015**, the District will provide OCR, for OCR's approval, its draft Section 504 and Title II grievance procedures.

- 4. The District will consider and respond to any feedback from OCR with respect to the draft Section 504 and Title II grievance procedures. Within **45 days** of OCR's approval of the procedures, the District will adopt and publish its Section 504 and Title II grievance procedures following its normal path for adoption and publication.

Reporting Requirement 4:

Within **10 days** of adoption and publication of the Section 504 and Title II grievance process, the District will provide OCR written verification that the Section 504/title II grievance process was adopted and published.

- 5. The District will draft training for delivery to all teachers and staff, and other relevant personnel on its Section 504 and Title II grievance procedures. This training will be provided by a qualified individual(s) who is not a District employee and will include, at a minimum, a discussion of the Section 504 and Title II grievance procedures including specific steps contained in the grievance procedures and were to find the grievance procedures.

Reporting Requirement 5:

Within **60 days** of OCR's approval of the Section 504 and Title II grievance procedures, the District will provide OCR the draft training materials and identification and credentials of the proposed trainer.

- 6. The District will consider and respond to any feedback from OCR with respect to the draft training materials and proposed trainer. Within 60 days of OCR's approval of the draft training materials and trainer, the District will complete delivery of the training.

Reporting Requirement 6:

Within **10 days** of the completion of the training, the District will provide OCR documentation establishing it has provided the training required by this term of the Agreement including sign-in sheets, the dates of training, identification and qualifications of the trainer(s), and copies of training materials.

7. The District will submit to OCR for approval a revised draft of the District's Section 504 manual. The revised manual shall be prepared by a person with expertise and knowledgeable of Section 504, particularly in light of the ADA Amendments Act of 2008 as incorporated into the ADA.

Reporting Requirement 7:

By **October 30, 2015**, the District will submit to OCR for approval a revised draft of the District's Section 504 manual.

8. The District will consider and respond to any feedback from OCR with respect to the revised Section 504 manual. Within **45 days** of OCR's approval of the Section 504 manual, the District will adopt and publish its Section 504 manual following its normal path for adoption and publication.

Reporting Requirement 8:

Within **10 days** of adoption and publication of the Section 504 manual, the District will provide OCR written verification that the Section 504 manual was adopted and published.

9. The District will draft training for delivery to all teachers and staff, and other relevant personnel on the District's Section 504 manual. This training will be provided by an individual(s) who is not a District employee and will include, at a minimum, a discussion of the revised sections of the District's Section 504 manual.

Reporting Requirement 9:

Within **45 days** of OCR's approval of the Section 504 manual, the District will provide OCR the draft training materials and identification and credentials of the proposed trainer.

10. The District will consider and respond to any feedback from OCR with respect to the draft training materials and proposed trainer. Within 45 days of OCR's approval of the draft training materials and trainer, the District will complete delivery of the training.

Reporting Requirement 10:

Within **10 days** of the completion of the training, the District will provide OCR documentation establishing it has provided the training required by this term of the Agreement including sign in sheets, the dates of training, identification and qualifications of the trainer(s), and copies of training materials.

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 Section 504 at 34 C.F.R. §§ 104.7(b) and 104.33-36, and Title II at 28 C.F.R. § 35.107(b) and 35.130(b)(iv), which were at issue in this case.

The District 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 the Agreement, if necessary, OCR may visit the District, interview District employees 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 regulation implementing Section 504 at 34 C.F.R. §§ 104.7(b) and 104.33-36, and Title II at 28 C.F.R. § 35.107(b) and 35.130(b)(iv), 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 proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

For Liberty Elementary School District:

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[Name] **Date**
Assistant Superintendent Educational Services