

**Gilroy Unified School District**  
Resolution Agreement  
OCR Case No. 09-13-1265

In order to resolve the issues raised in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (Title II) the Gilroy Unified School District, without admitting any violation of the law, agrees to take the actions outlined in this Resolution Agreement.

**A. Identification, Evaluation and Placement of Student and Procedural Safeguards**

1. Within 10 days of the date of this agreement, the District will send a letter to the Student's parents, including a copy of the District's Section 504 Policy and Procedures,<sup>1</sup> notice of procedural safeguards, and a notification that the District will take the steps regarding the identification, evaluation and placement of the Student as described in item 2 below. The District will send a copy of the letter to OCR.
2. Within 60 days of the date of the letter, the District will complete the following steps and provide OCR with written documentation of completion, including copies of the relevant documents.
  - a. Develop an assessment plan and submit it to the Student's parents for approval.
  - b. Conduct a comprehensive psycho educational evaluation of the Student sufficient to correctly and fully assess all areas of suspected disabilities.
  - c. Gather and review diagnostic and evaluative information from all outside medical, psychology other professionals who have provided assessment or treatment to the student.
  - d. Convene a meeting of a multidisciplinary team of persons knowledgeable about the Student and about the evaluation data. At the meeting the team will (1) review the results of the psycho-educational evaluation; (2) review all other relevant information about the Student including outside medical and psychological records, attendance records, grades, and progress reports.
  - e. Based on all the available data, the team will (1) determine whether the Student is an individual with a disability, and if so (2) develop a plan of regular or special education and related services designed to meet the Student's individual needs. The team will document in writing its decisions and the basis for basis for them.

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<sup>1</sup> The identification, evaluation and placement procedures required under the Individuals with Disabilities Education Act may be implemented to comply with this agreement.

- f. The parents will be given sufficient notice of the date of the team meeting and be given the opportunity to participate.
3. Within 60 days of the team's decision on the Student's placement and services, the team will reconvene to review the Student's progress, the appropriateness of the placement and need for additional or different services if any. Within 10 days after the meeting the District will provide OCR with documentation of the meeting and the decisions made at the meeting.

#### **B. Guidance for District and Site Administrators**

1. The District will provide a written guidance memorandum on its special education policies and procedures to all District and site level administrators and staff who have or may have responsibility for referring students for an assessment under IDEA or Section 504.
2. The guidance memorandum will reiterate the District's responsibilities for providing a free, appropriate public education (FAPE) to students with disabilities under Section 504, including a reminder that when the District has reason to believe that a student has a disability and needs or may need special education or related aids and services under Section 504, the District is obliged to conduct an assessment of the student whether or not the parent has provided a diagnosis or other documentation, and whether or not the parent has requested an evaluation or services. In addition, the guidance memorandum will:
  - a. Explain the definition of an individual with a disability and the definition of major life activities consistent with Section 504 and Americans with Disabilities Amendments Act of 2008 (Amendments Act);<sup>2</sup>
  - b. Identify criteria or indicators for when a Section 504 evaluation is necessary and summarize (1) how the Section 504 evaluation process is conducted, (2) required timelines, and (3) the individual responsibilities of administrators and staff; and
  - c. Clarify that grades and/or test scores should not be the sole criteria considered when determining whether the District should refer a student for an assessment for special education or related aids and services.

#### **C. Reporting and Monitoring**

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<sup>2</sup> The District may wish to include or incorporate OCR's January 2012 "Dear Colleague Letter" on Section 504/Title II and the Amendments Act, including frequently asked questions, available at: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201109.pdf>

1. Individual Remedy: Within seventy (70) days of the date of this signed agreement, the District will provide OCR with verification that the assessment was conducted as described in Section A.
2. Guidance memorandum: By January 31, 2014, the District will provide OCR with a draft of the guidance memorandum described in Section B and will work cooperatively with OCR to resolve any questions or concerns OCR may have concerning the draft. Within 10 days after receiving OCR's approval of the draft, the District will distribute the guidance memorandum with a copy and written confirmation of distribution sent to OCR.
3. 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 of the Rehabilitation Act of 1973 at 34 C.F.R. §§104.33-104.36, which were at issue in this case.
4. 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 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 regulation implementing Section 504 of the Rehabilitation Act of 1973 at 34 C.F.R. §§104.33.
5. 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.

\_\_\_\_\_/s/\_\_\_\_\_  
Dr. Deborah A. Flores, Superintendent

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Date

11/4/2013