

Resolution Agreement
Menifee Union School District
OCR Case Number 09-14-1318

The Menifee Union School District (District), without admitting to any violation of law, agrees to implement the following provisions in this Resolution Agreement (Agreement) to resolve the issues investigated by the Office for Civil Rights, U.S. Department of Education (OCR), under the Title II of the Americans with Disabilities Act (Title II) and Section 504 of the Rehabilitation Act (Section 504), in the above-referenced complaint.

I. Individual Remedies

- A. The District will hold an Individualized Education Program (IEP) meeting for the Student by November 15, 2014. The meeting is to be attended by a team of individuals knowledgeable about the Student and about evaluation data concerning the Student. The Student's family will be notified at least one week in advance of the date on which the team will meet and be given the opportunity to attend and submit records or other information. The Student's family will also be provided written notice of procedural safeguards at the meeting
- B. At the meeting, the IEP team will review whether additional evaluation and/or a functional behavioral assessment of the Student is needed to fully address any disability-related behaviors of the Student that are interfering with the Student's ability to benefit from his educational program. If the team determines that additional evaluation/assessment is necessary, the parent will be provided an assessment plan within 15 calendar days. The timeline for assessment will be 60 days after the signed assessment plan has been received by the District. If an assessment is agreed upon, the District will complete the evaluation/assessment and revise the Student's IEP consistent with any resulting recommendations.
- C. At the IEP meeting, the team will also form a Support Team and develop an individualized Support Plan for the Student. The Student's IEP team will:
 - 1. Determine the composition of the Student's Support Team which, at a minimum, is to include a representative from the Student's family, the School Psychologist, the School Principal or Assistant Principal, and the Student's classroom teacher;

2. Identify a staff member who will serve as the designated point of contact for the Student and the Student's family in the event that they wish to report concerns or incidents regarding harassment of the Student;
 3. Make an individualized decision as to whether the Student should be provided with a one-to-one aide to help protect the Student from harassment, to ensure that the Student has safe and equitable access to all school and District activities, and to continue to work with him on the development of his social skills and his skills in self-awareness and self-advocacy; and
 4. Develop a written, individualized Support Plan to promote a safe, equitable, harassment-free environment for the Student.
- D. The designated point of contact will meet with the Student's classroom teacher monthly in the fall 2014 semester regarding any concerns about possible peer-to-peer harassment involving the Student. The point of contact will then e-mail the Support Team, including the designated representative from the Student's family, summarize the feedback from the teacher, and make any recommendations he or she believes are appropriate, including whether or not the Support Team should discuss revising the Support Plan because of new or ongoing concerns, and also whether action should be taken to remedy any incidents of harassment of the Student.

II. Disability Harassment Guidance and Instruction

- A. The District will provide mandatory training on disability harassment to all school site administrators in the District. The training will take place in the fall of the 2014-2015 school year and will include the topics listed below:
1. The District policy prohibiting discrimination, including harassment, against a student based on disability by another student, a District employee, or a third party;
 2. OCR's Dear Colleague Letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html> (October 26, 2010). The letter clarifies the relationship between bullying and discriminatory harassment and how schools should respond;

3. The types of conduct that could constitute disability-based harassment, such as verbal acts and name-calling, and graphic and written statements about disability-related characteristics or about classroom accommodations;
 4. A review of the procedure the District uses to resolve complaints of discrimination, including harassment based on disability; what an administrator should do if he or she observes or learns of disability-based harassment of a student by a peer, District employee, or third party, including if applicable the site administrator's responsibility for promptly investigating such incidents and for notifying complainants of the outcome of a complaint, or for referring the complaint to a District administrator; and
 5. An explanation of what staff members should do if they observe or learn of disability-based harassment of a student by a peer, a District staff member, or a third party, and guidance on how administrators should ensure that staff members are aware of their responsibilities.
- B. The District will distribute a guidance memorandum to all District and site administrators at the training that includes the information in Section II.A above.
- C. The District will designate a knowledgeable individual in the District to serve as a resource for any administrators or school site staff members who have questions as to how the guidance applies to a given situation and/or scenario.
- D. The District will provide an age-appropriate informational program for students designed to increase awareness of what constitutes harassment based on disability, inform students of the consequences of harassment for both the student who is the target of the harassment and for the harasser, and encourage students to report harassment. The topics of the instructional program should include, but are not limited to:
1. The differences between bullying and harassment that may be discriminatory in nature;
 2. The types of conduct that could constitute such harassment, including such as verbal acts and name-calling, graphic and written statements, or other conduct that may be physically threatening, harmful, or humiliating;

3. The negative impact that such harassment has on the educational environment;
4. The consequences, including discipline, that may be imposed on students who engage in harassment of other students based on disability, and
5. How students should respond if they experience or witness such harassment, including the reporting avenues available.

III. District Policies and Procedures

- A. The District will provide parents with notice of procedural safeguards at every IEP or Section 504 meeting where any action is taken regarding the identification, evaluation or placement of the student.
- B. The District will amend its *Notice of Procedural Safeguards and Parents' Rights* to state that per 34 C.F.R. 104.36 of the regulations, school districts are required to have a system of procedural safeguards with respect to any action taken by the district regarding the identification, evaluation or placement of the student. Such safeguards must include notice of the action, an opportunity to examine relevant records, an impartial hearing with opportunity for participation by parents or guardians and representation by counsel, and a review procedure.

IV. Monitoring and Reporting

- A. Within ten days of the IEP meeting held pursuant to Section I., the District will provide to OCR documentation from the meeting, including (a) the names and titles of the participants; (b) documentation reflecting the team's decision, and the reasons for the decision, as to whether additional evaluation/assessment of the Student's disability-related behaviors is needed; (c) a copy of the individualized Support Plan that was developed; and (d) any other meeting notes that were generated. If additional assessment is conducted, the District will provide OCR with a copy of the assessment report and any revisions made to the Student's IEP within ten days.
- B. By January 15, 2015, the District will provide OCR with a summary of its implementation of the Individualized Support Plan, including sufficient supporting documentation to demonstrate implementation of this Agreement. The summary should include information about how the District responded to any allegations of disability-based

harassment toward the Student and any changes to the Support Plan made during fall/winter 2014.

- C. By December 15, 2014, pursuant to Section II.C. above, the District will provide a draft of the guidance memorandum to OCR for review and comment. OCR will provide any comments on the draft within 30 days. The District will finalize the memorandum within 30 days of receiving OCR's comments.
- D. By December 15, 2014, pursuant to Section II.A. above, the District will provide to OCR for review and comment a copy of the disability harassment training agenda, including the names of the trainer(s) and the proposed date(s) of completion.
- E. By January 15, 2015, the District will provide OCR with documentation that shows that it has completed the training described in Section II.A. above. This documentation is to include (a) the names and titles of the trainer(s), (b) the dates of the trainings, (c) a copy of the final agenda and materials used at each of the trainings, and (d) a list of the participants.
- F. Within ten days of the date of the training, OCR will provide the District with a final copy of the guidance memorandum and distribution list pursuant to Section II.C. above.
- G. By January 15, 2015, the District will provide OCR with a description of how it intends to provide the informational program to students described in Section II.D. for review and approval, including information about the materials to be used, the name(s) and affiliations of the individual(s) who will deliver the instruction, and the schedule for providing it. OCR will provide any comments on the draft within 30 days. The District will implement the informational program within 30 days of receiving OCR's comments.
- H. By March 31, 2014, the District will provide OCR with documentation demonstration that the informational program for students has been completed. The documentation will include the date(s) of the instruction, the names of the individuals providing the instruction, and copies of the materials used and/or given to students.
- I. By November 15, 2014, the District will provide a draft of its amended *Notice of Procedural Safeguards and Parents' Rights* to OCR for review and comment. Within 30 days of receiving OCR's comments, the District will publish the amended *Notice of Procedural Safeguards and Parents' Rights*.

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 in compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, 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 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 Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, 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.

_____/s/_____
Superintendent Designee
Menifee Union School District

10/16/2014
Date