

RESOLUTION AGREEMENT

Capistrano Unified School District OCR No. 09-15-1470

The Capistrano Unified School District (District), without admitting to any violation of law, agrees to implement this Resolution Agreement (Agreement) to resolve the issues investigated by 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 of 1990, as amended (Title II).

I. Compensatory Services

Within thirty (30) calendar days of the date of this agreement, after providing proper written notice to the Student's parent and with parental consent, a group of knowledgeable persons, including the parent, will determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide the Student: two (2) 30-minute individual speech and language sessions; and eight (8) individual instead of group 30-minute speech and language sessions during the 2014-2015 school year. If so, within one (1) week of its determination, the group will develop a plan for the District, by using its own staff or by paying for another qualified speech and language pathologist (SLP), to provide timely compensatory and/or remedial services with a completion date not to extend beyond the end of the 2016-2017 school year. The District will provide the Student's parent notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

- a) Within thirty (30) calendar days of the date of this agreement, the District will provide OCR a copy of the written notice to the Student's parent and will confirm whether or not the parent consented to the meeting. If the parent does not consent, then the District has no further reporting or other requirements under Section I.
- b) If the Student's parent consented to the meeting, within fourteen (14) calendar days of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, the information considered, an explanation for decisions made, and a description of and schedule for providing compensatory and/or remedial services (if any) to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met the requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, and, as applicable, Title II, at 28 C.F.R. 35.160, in making these determinations.

- c) If the group determines that compensatory and/or remedial services are needed, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s) once the services have been fully implemented, but no later than the end of the 2016-2017 school year.

II. Logging and Recording Related Services

The District will implement a practice of requiring each of its SLPs to consistently and accurately record speech and language services provided to District students in its electronic logging system, Paradigm, or other similar system, and will assign knowledgeable personnel, such as the student's case carrier, to periodically monitor the system to ensure that services are delivered consistent with the requirements of the student's individualized education program (IEP) or Section 504 Plan. The District will take effective steps, including providing training and written guidance, to ensure that SLPs and assigned monitoring personnel are aware of these requirements.

Reporting Requirements:

- a) Within thirty (30) calendar days of the date of this agreement, the District will provide a written report to OCR describing its practice of requiring each of its SLPs to record services provided in the Paradigm or other appropriate system, and the list of individuals designated to monitor the provision of services consistent with IEPs and Section 504 Plans.
- b) Within forty-five (45) calendar days of the date of this agreement, the District will provide documentation to OCR of the training and written guidance and any other effective steps that it has taken to ensure that SLPs and assigned monitoring personnel are aware of these requirements. Such documentation shall include a copy of the training materials, guidance, and a list of training attendees and dates of trainings.

III. Monitoring

The District understands that by signing this agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this agreement 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 Section 504 and Title II, and their respective implementing regulation at 34 C.F.R. §104.33 and 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), which were at issue in this case. The District understands that OCR will not close the monitoring of this agreement until such time that OCR determines that the District has fulfilled the terms of this agreement and is in compliance with Section 504 and Title II, and their respective implementing regulation at 34 C.F.R. §104.33 and 28 C.F.R. §§ 35.103(a) and 35.130(b)(1)(ii) and (iii), at issue in this matter.

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 sixty (60) calendar days to cure the alleged breach.

/s/
[Authorized Official]
Capistrano Unified School District

02/27/2016
Date