

## SETTLEMENT AGREEMENT

### I. INTRODUCTION

Minidoka County Joint School District #331 (District) enters into this Settlement Agreement to resolve the compliance issues identified by the U.S. Department of Education (OCR) in its investigation of OCR Reference No. 10121025, conducted under the authority of section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990, and their implementing regulations

### II. GENERAL PROVISIONS

- A. This agreement resolves only those compliance issues identified by OCR in the investigation of OCR Reference No. 10121025 and does not constitute an admission by the District of any violation of Section 504, Title II, or any other law.
- B. The District understands and acknowledges that, if it does not fully implement this agreement, OCR will take appropriate measures within its authority to effect compliance and 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.
- C. The District understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, the District understands that during the monitoring of this agreement, OCR may visit the District's place of business, 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 at 34 CFR Part 104 and Title II at 28 CFR Part 35, which were at issue in this case.
- D. 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 CFR Part 104 and Title II at 28 CFR Part 35.

### **III. REMEDIAL PROVISIONS**

#### **A. Policies and Procedures**

By October 31, 2014, in consultation with OCR, the District will review and revise, as necessary, its policies and procedures concerning disability discrimination and harassment. At a minimum, the District will ensure that it has a procedure to investigate incidents and allegations of student-on-student harassment and that its procedures provide for a prompt and effective resolution of such incidents and allegations consistent with 34 CFR 104.7(b) and 28 CFR 35.107(b). The policies and procedures will also include a system to record the receipt of and responses to all reports of disability-related harassment of students in the programs and activities of the District. The procedures will contain, at a minimum:

1. notice to students, parents, and District staff, including where grievances may be filed;
2. application of the procedure to grievances concerning disability-based discrimination and harassment;
3. adequate, reliable, and impartial investigation of grievances, including the opportunity to present witnesses and other evidence;
4. designated and reasonably prompt timeframes for the major stages of the grievance process;
5. notice to the parties of the outcome of the grievance; and
6. an assurance that the District will take steps to prevent recurrence of any discrimination or harassment and to correct the effects on the complainant and others, if appropriate.

#### **B. Notice and Training to Staff and Administrators**

1. By November 28, 2014, the District will distribute a memorandum to all District and school administrators regarding the District's obligation to provide a nondiscriminatory education environment for students with disabilities. The memorandum will explain the following:
  - a. District policy prohibits disability discrimination and harassment of a student by other students or by District employees based on disability;
  - b. examples of what constitutes discriminatory disability-based harassment and what District staff should do if he or she learns of the alleged harassment of a student by a peer or by an employee based on disability;

- c. students, parents or guardians who report disability discrimination, including harassment, must be notified that they can address their complaints through the District’s discrimination complaint process and how to obtain a copy of the procedure;
  - d. investigations should be prompt, thorough and impartial and should include interviews of relevant witnesses who may have knowledge of the alleged discrimination;
  - e. records must be maintained documenting the processing and resolution of discrimination complaints, including documentation of witness interviews;
  - f. written notice of the outcome of the complaint provided to the complainant, including a statement of all the issues raised, the findings made on each issue and the rationale for each, the corrective actions for each issue, if any, and notice of the right to appeal; and
  - g. designation of a knowledgeable individual at 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.
2. By January 30, 2015, the District will provide for training of all administrative and instructional staff of District staff at Minico High School (School) regarding the District’s policies and procedures described above at section III.A of this agreement. Training will include, but need not be limited to:
    - a. A review of the July 2000 “Dear Colleague Letter” issued by OCR, which discusses the laws that apply to disability harassment and how to prevent and respond to disability harassment <sup>1</sup>;
    - b. A review of the October 2010 “Dear Colleague Letter” issued by OCR, which clarifies the relationship between bullying and discriminatory harassment and how schools should respond <sup>2</sup>;

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<sup>1</sup> On July 25, 2000, OCR released a Dear Colleague Letter concerning the legal and educational responsibilities that recipients have to prevent and appropriately respond to disability harassment. The full text of the letter may be found at the following link: <http://www2.ed.gov/about/offices/list/ocr/docs/disabharassltr.html>

<sup>2</sup> On October 26, 2010, OCR released a Dear Colleague Letter concerning recipients’ obligations to protect students from student-on-student harassment on the basis of sex; race, color and national origin; and disability. The full text of the letter may be found at the following link: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

- c. the types of conduct that could constitute disability-based harassment, such as verbal acts and name-calling, graphic and written statements about a disability or disability-related characteristics or about classroom accommodations, or other conduct that may be physically threatening, harmful or humiliating;
- d. strategies to curb or repel such harassment, including the implementation of behavioral or curricular modifications for harassed students; and
- e. Information that failure to respond to written or verbal concerns of disability-based discrimination or harassment, or failure to report observed incidents of such discrimination or harassment to appropriate personnel, are not consistent with the District's responsibility under Section 504 and Title II to ensure that students not be subjected to a hostile environment on the basis of disability.

**C. Notice to Parents and Students**

1. By October 30, 2014, the District will issue a notice to all students at the School and their parents stating that the District does not tolerate discrimination, including acts of harassment based on disability, and that the District is committed to conducting a prompt investigation of discrimination complaints. The statement will also:
  - a. Encourage any student who believes he or she has been subjected to harassment based on disability to report it to a teacher or administrator;
  - b. provide examples of discriminatory disability harassment;
  - c. include contact information for the designated School administrator to whom students and parents may report allegations of harassment; and
  - d. advise that students found to have engaged in acts of harassment based on disability may be disciplined and that such discipline may include suspension or expulsion.
2. By August 31, 2015, the district will ensure that the above-described notice will be printed in Student Handbooks, posted in prominent locations at the School, and published on the School's website.

**D. Age-Appropriate Student Instruction**

By December 31, 2014, and at least yearly thereafter, the District will provide annual age-appropriate student instruction for middle and high school students designed to increase awareness of what constitutes disability-based harassment, inform students of the consequences of harassment, and encourage students to report harassment. The topics of the instructional program should include, but are not limited to:

1. the types of conduct that could constitute such harassment, such as verbal acts and name-calling, graphic and written statements about a disability or disability-related characteristics or about classroom accommodations, or other conduct that may be physically threatening, harmful, or humiliating;
2. the negative impact that such harassment has on the educational environment; and
3. how students should respond if they experience or witness such harassment, including the reporting avenues available.

**E. Climate Check**

1. By January 30, 2015, the District will conduct an annual climate check for the next three years with students at the School to assess the effectiveness of steps taken pursuant to this agreement or otherwise by the District to ensure that the school is free of harassment based on disability. The climate check will include a written or electronic survey of students. The survey must be provided to OCR for review and approval prior to its use and should include the name of a contact person, such as a counselor, should they wish to discuss this issue in person. Information gathered during the climate checks will be used to identify future proactive steps taken by the District.
2. By January 30, 2015, the District will establish a working group comprised of students, parents and administrators to discuss matters concerning harassment, review the student survey results, review complaints of harassment received in the prior year, and suggest measures for improving the effectiveness of the District's anti-harassment program.
3. By August 31, 2015, and by the same date annually thereafter, the District review all complaints of harassment received in the prior year, the measures suggested by the working group, and the results of the climate survey to develop and implement an annual plan for its anti-harassment efforts.

**F. Student-Specific Remedy**

By September 30, 2014, the District will send a letter to the parents and the student who was the subject of this complaint which informs the parties of the District's commitment to ensuring that all its participants are free from disability-related discrimination and harassment. The letter will describe the various actions that the district has taken and continues to take to ensure that the District is in compliance with Section 504 and Title II in this regard.

**III. REPORTING PROVISIONS**

- A. By October 15, 2014, the District will provide OCR with a copy of the letter sent to the parents and student pursuant to section III.F of the agreement.
- B. By November 14, 2014, the District will provide OCR with a draft of the memorandum described in section III.B.1 above for OCR's review and comment.
- C. Within 20 days of receiving OCR's approval regarding the memorandum pursuant to section III.B.1, the District will distribute the final version of the guidance memorandum to administrators and staff, with a copy to OCR.
- D. By November 14, 2014, the District will provide OCR with a copy of the notice that was distributed to all parents and students as referenced in section III.C.1, above.
- E. By November 14, 2014, the District will provide OCR with a draft of the policies and procedures pursuant to section III.A for OCR's review and comment.
- F. Within 20 days of receiving OCR's input regarding the policies and procedures pursuant to section III.A, the District will provide OCR with revised policies and procedures that are responsive to OCR's input, if necessary. Within 30 days of receiving OCR's approval of the revised policies and procedures, the District will adopt the policies and procedures.
- G. By November 14, 2014, the District will inform OCR of how it intends to conduct the climate check described in section III.E.1 of the agreement, and provide the draft survey to OCR for review.
- H. Within 60 days of receiving OCR's approval regarding the climate check method, the District will complete the climate check and will inform OCR of the results of the climate check.

- I. By November 14, 2014, the District will submit, for OCR’s review and comment, a description of how the District will establish the work group described at section III.E.2, including the number of students, parents and administrators who will comprise the work group, the procedures the work group will follow, and the timeframes for action steps.
- J. Within 30 days upon OCR’s approval, the District will begin implementation of the plan developed pursuant to section III.E.2.
- K. By February 28, 2015, the District will provide OCR with documentation demonstrating that the training described in III.B.2 has been completed. The documentation will include the date(s) of instruction, the names of the trainer(s), the names and position titles of the attendees, and copies of the materials used in the training.
- L. By February 28, 2015, the District will provide OCR with documentation demonstrating that the instruction in section III.D has been completed. The documentation is to include the date(s) of instruction, the names of the trainer(s), and copies of the materials used and/or given to students.
- M. By September 25, 2015, pursuant to section III.C.2, the District will provide OCR a list of all documents, websites and locations in which the nondiscrimination notice described at section III.C.1 is published.
- N. By September 25, 2015, pursuant to section III.E.3, the District will provide a written report to OCR summarizing the results of the anti-harassment plan for the 2014-2015 school year, and describing the plan for 2015-2016 school year, including a description of any actions that were taken to improve the effectiveness of the District's anti-harassment program. The District will submit the information considered in developing the plan, including recommendations from the work group and reports of all allegations of harassment received during the 2014-2015 school year.
- O. By August 12, 2016, the District will provide a written report to OCR summarizing the results of the anti-harassment efforts for 2015-2016 school year and describing the plan for the 2016-2017 school year, including a description of any actions that were taken to improve the effectiveness of the District's anti-harassment program. The District will submit the information considered in developing the plan, including recommendations from the workgroup, results of the annual survey, and reports of all allegations of harassment received during the 2015-2016 school year.

- P. By August 11, 2017, the District will provide a written report to OCR summarizing the results of the anti-harassment efforts for the 2016-2017 school year and describing the plan for any subsequent school years (if any), including a description of any actions that were taken to improve the effectiveness of the District's anti-harassment program. The District will submit the information considered in developing the plan, including recommendations from the workgroup, results of the annual survey, and reports of all allegations of harassment received during the 2016-2017 school year.

Signed:

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Kenneth W. Cox, Ph.D.  
Superintendent

\_\_07/30/2014\_\_\_\_\_  
Date