

## **RESOLUTION AGREEMENT**

### **Commack School District**

### **Case No. 02-15-1323**

In order to resolve Case No. 02-15-1323, the Commack School District (the District) assures the U.S. Department of Education, New York Office for Civil Rights (OCR), that pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35, it will take the actions set forth below.

#### **Action Item 1:**

By November 30, 2015, the District will convene a Committee on Special Education (CSE) meeting for the Student (including the complainant) to determine whether the District should provide any remedial and/or compensatory services and counseling to the Student due to any effects the presence of the aide in his XXXXXX XXXXXX XXXXXX class (the Aide) at the Commack High School (the School) may have had on him, from the beginning of school year 2014-2015 through January 6, 2015. If the CSE determines that remedial and/or compensatory services and counseling are necessary, the CSE will develop a plan for providing those services, with a completion date for providing the services not to extend beyond March 31, 2016.

#### **Reporting Requirements:**

- a) By November 30, 2015, the District will provide to OCR a summary of the meeting held in connection with Action Item 1 above, including a description of any action taken or to be taken, with timelines; the plan for providing any remedial and/or compensatory services and counseling to the Student, if determined necessary; and, documentation demonstrating that the District provided notice of and invited the complainant to the meeting. 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. §§ 104.33, 104.34, 104.35, and 104.36, in making these determinations.
- b) By March 31, 2016, the District will provide documentation to OCR demonstrating that the Student has been provided with any remedial and/or compensatory services and counseling deemed necessary. The documentation will include the dates, times, and locations that services were provided, and the name(s) of the service provider(s).

#### **Action Item 2:**

By December 31, 2015, the District will provide training to relevant District/School personnel regarding the appropriate methods for implementing and documenting the implementation of the Student's Individualized Education Program (IEP) for school year 2015-2016. The training will include instruction regarding the following: (a) maintaining timely, detailed, and accurate

documentation regarding the provision of services to the Student; and, (b) tracking and/or monitoring the provision of services to the Student.

**Reporting Requirement:** By December 31, 2015, the District will provide documentation to OCR demonstrating that training was provided consistent with Action Item 2 above, including: (a) the name(s) of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; and, (d) copies of any training materials disseminated.

**Action Item 3:**

By January 31, 2016, and periodically thereafter, the District will provide training to all relevant School personnel regarding the prohibitions against disability discrimination, including harassment. The training will include instruction regarding the following: (a) the requirements of Section 504 and the ADA, including that discrimination and/or harassment based on disability is prohibited and will not be tolerated; (b) the range of behaviors that constitute discrimination and/or harassment based on disability; (c) the disciplinary sanctions applicable to anyone who engages in discrimination and/or harassment based on disability; (d) the responsibility of staff to report incidents of possible discrimination and/or harassment and the procedures for doing so; and, (e) where, how and to whom instances of discrimination and/or harassment are to be reported.

**Reporting Requirement:** By January 31, 2016, the District will provide documentation to OCR demonstrating that the training referenced in Action Item 3 was provided to all relevant School personnel. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including any handouts, guides, or other materials; and, proof of attendance by staff at the School.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §104.4(b)(1)(iv), and the ADA, at 28 C.F.R. § 35.130(a) and (b)(1)(iv), which were at issue in this case. The District also 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 regulations implementing Section 504, at 34 C.F.R. §104.4(a) and (b)(1)(iv)), and the ADA, at 28 C.F.R. § 35.130(a) and (b)(1)(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 sixty (60) calendar days to cure the alleged breach.

November 9, 2015

/s/

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Date

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Donald James, Ed.D.  
Superintendent  
Commack School District