

RESOLUTION AGREEMENT

Bayport-Blue Point Union Free School District Case No. 02-18-1402

In order to resolve Case No. 02-18-1402, the Bayport-Blue Point Union Free School District (the District) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the actions detailed below 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 (the ADA), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35. This resolution agreement has been entered into voluntarily and does not constitute an admission of liability, non-compliance or wrongdoing by the District.

Action Item 1: Supplemental Investigation of Harassment Allegations

By February 28, 2019, the District will complete a supplemental investigation of the complaints the complainant made in October 2017, December 2017, and January 2018, regarding five alleged incidents of harassment of her son (the Student) because of his disability. The District will ensure that the investigation complies with the regulations implementing Section 504 and the ADA. Specifically, the investigation of the complainant's allegations will involve a detailed review by the District of all information previously provided to District and/or XXX XXXX XXXX XXXX (School) staff; review of all physical evidence available to District/School staff; interviewing or re-interviewing witnesses, as appropriate; an opportunity for the complainant and Student to provide any additional information or witnesses to the District relevant to the complaints; an opportunity for the accused students and staff to provide any additional information or witnesses; a review of such additional information, and/or as appropriate, interviews of such additional witnesses; and, a determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports a finding that the Student was subjected to harassment that created a hostile environment because of his disability. If the District concludes that the Student was subjected to harassment that created a hostile environment because of his disability, the report will include a description of what action it intends to take against any alleged harassers; and, how the District plans to remedy the effects upon the Student. The outcome of the supplemental investigation will be communicated to the complainant, the parents/guardians of the accused students, and accused staff. The District will ensure that it responds to any additional alleged incidents of harassment involving the Student of which it has notice, in a prompt and effective manner; with action that is reasonably calculated to stop the harassment, prevent its recurrence, and as appropriate, remedy its effects.

Reporting Requirements:

- (a) By March 31, 2019, the District will submit to OCR, for review and approval, a report documenting the procedures used to conduct its supplemental investigation as outlined in Action Item 1 above, as well as the outcome of the supplemental investigation; any corrective actions deemed necessary; and, a timeline for

implementation of the corrective actions, if necessary. The District will also provide documentation supporting the determination made in the supplemental investigation.

- (b) By June 30, 2019, the District will report to OCR any incidents of alleged disability discrimination and/or harassment that occurred during school year 2018-2019 involving the Student of which it had notice. The report to OCR will include, at a minimum, (a) a copy of the complaint or a description of any orally reported alleged incident(s) of disability discrimination or harassment; (b) the date(s) of receipt of the written complaint or oral report; (c) a description of the District's findings and response to the incident(s); and, (d) the date(s) that the District provided notice of the outcome of its investigation to the parties.

Action Item 2: Individual Relief for the Student

By March 31, 2019, the District will convene a meeting of a group of persons knowledgeable about the Student to consider whether the Student was denied a free appropriate public education (FAPE) as a result of any harassment. If so, the group will consider the need for remedial and/or compensatory regular or special education and related aids and services, including counseling services. In making these decisions, the District will adhere to procedures that satisfy the requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34; 104.35 and 104.36. The District will invite the complainant to attend this meeting and to provide whatever documentation the complainant has to support that the Student was denied a FAPE as a result of any harassment. If the group of knowledgeable persons determines that the Student requires remedial or compensatory services, the District will develop a plan for providing the services; with a completion date for providing the services not to extend beyond August 31, 2019.

Reporting Requirements:

- a) By April 15, 2019, the District will submit to OCR a copy of the meeting minutes or similar documentation from the meeting referred to in Action Item 2 above, including but not limited to documentation demonstrating that the group made a decision about whether the Student requires remedial and/or compensatory regular or special education and related aids and services, including counseling services; an explanation for the decisions made regarding whether the Student requires such services; a detailed description of the services to be provided, if any; the schedule for providing any such services; and, documentation demonstrating that the complainant was invited to attend 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. §§ 104.34, 104.35 and 104.36, in making these determinations.
- b) If applicable, by August 31, 2019, the District will provide documentation to OCR demonstrating that it has provided the Student with all remedial and/or compensatory regular or special education and related aids and services, including counseling services, deemed necessary. The documentation should include the dates, times, and locations that such services were provided, and the name(s) of the service provider(s).

Action Item 3: Review of District Staff's Actions Concerning the Allegation of Retaliation

By March 31, 2019, the District shall convene a committee to review the events and circumstances related to the complainant's complaint of retaliation, made in January 2018, that the Student's teacher allegedly made the Student XXX XXXX XXX the class from XXXXXXXXXXXX. The District will take such actions as may be appropriate and warranted based upon the review. The District will issue a written report to OCR concerning the review, and findings, and any actions deemed appropriate and warranted to address the findings.

Reporting Requirements:

- a) By April 15, 2019, the District will provide a report to OCR concerning its review conducted consistent with Action Item 3, including a description of the process for the review, the information considered, and an explanation for the determination made. The District will identify by name and title personnel involved in the review and issuance of the report.
- b) By May 15, 2019, if warranted, the District will provide documentation to OCR demonstrating that it has taken appropriate action, including any disciplinary action, based upon its review and findings.

Action Item 4: Training for District Staff

- A. By March 30, 2019, the District will provide training to all District staff responsible for processing, investigating, and/or resolving complaints or other reports of discrimination on the basis of disability, including harassment at the School. The training will review the District's policies and procedures for investigating complaints of discrimination on the basis of disability, including harassment; and, include instruction on how to conduct and document the investigations of complaints of discrimination on the basis of disability, including harassment, in an adequate, reliable and impartial manner, including the appropriate legal standards to apply in such investigations. The training will include an explanation of the definition of disability-based discrimination, including harassment; and, provide specific examples and scenarios.
- B. By June 30, 2019, the District will provide training to all School certified teaching staff on the prohibitions regarding retaliation. The training will include, at a minimum, a discussion of (a) what constitutes a protected activity; (b) what constitutes an adverse action; (c) recognizing acts of retaliation and intimidation, and their effects on individuals who engaged in protected activities; and, (d) the consequences for engaging in retaliation. The training will provide specific examples and scenarios.
- C. By March 30, 2019, the District will provide training to the School principal, School assistant principals, and the Student's special education and regular education teachers and classroom aides regarding the prohibition against discrimination on the basis of disability, including harassment. The training will include, at a minimum, a discussion of (a) the prohibitions

against disability discrimination/harassment; (b) what constitutes disability discrimination/harassment; and, (c) the consequences for engaging in disability discrimination/harassment. The training will provide specific examples and scenarios.

Reporting Requirement:

By August 31, 2019, the District will provide documentation to OCR demonstrating that training was provided consistent with Action Item 4 above. This documentation will include: (a) the name(s) and credentials 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; (d) a description of the content, scope, and duration of the training provided; and, (e) copies of all training materials used and disseminated, including handouts, guides, or other materials.

The District understands that by signing this resolution agreement (the 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 and obligations of this Agreement. Upon the District's satisfaction of the commitments made under this Agreement, OCR will close this case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Date: 2/20/19

Signed: _____/s/_____
Superintendent
Bayport-Blue Point
Union Free School District