

## **RESOLUTION AGREEMENT**

### **New York City Department of Education Case No. 02-19-1351**

In order to resolve Case No. 02-19-1351, the New York City Department of Education (the NYCDOE) 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; Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35; and, Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d et seq., and its implementing regulation at 34 C.F.R. Part 100.

This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by NYCDOE.

#### **Action Item 1: Individual Remedies for the Student**

The NYCDOE will afford the Student an equal opportunity to attend field trips. If the Student is unable to participate in a field trip, the NYCDOE will ensure that the Student is not treated differently from other students in the class who do not participate in field trips. In support of these assurances, by July 15, 2020, the NYCDOE will provide the below documentation to OCR regarding the Student's participation in field trips during school year 2019-2020.

**Reporting Requirement:** By July 15, 2020, the NYCDOE will submit documentation to OCR consistent with Action Item 1 above; including, at a minimum: (a) a list of all field trips taken by any of the Student's class(es)/program(s) during school year 2019-2020, including the date(s) and location of each trip; (b) whether the Student attended the field trip, and if not, the reason(s) the Student did not attend, if known; (c) whether the Student was required to be chaperoned by a parent/guardian during the trip, and if so, why; and, (d) if the Student did not attend a field trip, a description of the Student's assignment/placement during the day of the field trip, and whether other students in the Student's class/program who could not attend the field trip had the same assignment/placement that day.

#### **Action Item 2: Referral to Superintendent for Review**

By January 22, 2020, NYCDOE's Office of Legal Services ("OLS") will refer to the Superintendent of Community School District 1 its findings related to the allegation that the Student was retaliated against for the complainant's refusal to consent to an Individualized Education Program (IEP) for the Student in XXXXXXXXXX 2018. Specifically, the Superintendent will make a determination, based on OLS's findings and any other relevant information the Superintendent may request or obtain, as to whether the Student's teachers banned the Student, on XXXXXXXX XX, 2018, from all future class trips unless accompanied by the complainant; placed the Student in a XXX-XXXXXXXXXXXX classroom on XXXXX XX and XX, 2019, while the Student's class attended a field trip; and/or, informed the complainant, on

XXX X, 2019, that there was no classroom where the Student could go while the XXXXXX grade class attended a field trip on XXX X, 2019; and, if so, whether such actions were taken in retaliation for the complainant's refusal to consent to an IEP for the Student in XXXXXXXXXX 2018. If the Superintendent determines that retaliation occurred, the Superintendent will determine whether any action is appropriate, including but not limited to discipline, training, and/or other action, and will take any necessary action by February 28, 2020.

**Reporting Requirements:**

- (1) By March 6, 2020, the NYCDOE will provide documentation to OCR demonstrating that the Superintendent conducted a review of the OLS's findings in accordance with Action Item 2 above. The documentation will include, at a minimum, a description of the process the Superintendent utilized to assess OLS's findings; a description of any follow up actions the Superintendent determined to be appropriate, including but not limited to discipline, training, and/or other action; and a description of the basis underlying that determination. The NYCDOE will also identify, by name and title, the Superintendent involved in making the determination.
- (2) If any follow up action, including but not limited to discipline, training, and/or other action, will be taken, then by April 15, 2020, the NYCDOE will provide documentation to OCR demonstrating implementation of any such follow up action.

**Action Item 3: Training**

By March 31, 2020, the NYCDOE will ensure that the School principal, assistant principal, all of the Student's teachers during school year 2018-2019 receive training regarding the NYCDOE's obligations under Section 504, the ADA, and Title VI; and, the NYCDOE's prohibition regarding retaliation. The training will cover, at a minimum, the NYCDOE's obligation to ensure that students are not retaliated against or excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the NYCDOE's programs; (including ensuring that students with disabilities are afforded an equal opportunity for participation in field trips, and are not treated differently regarding temporary placements if they are not able to attend field trips) and a school's obligation to report and otherwise respond to complaints of discrimination and retaliation against students.

**Reporting Requirement:** By April 15, 2020, the NYCDOE will submit documentation to OCR demonstrating that the NYCDOE provided training in accordance with Action Item 3 above, including the name and credentials of the trainer; the date(s) of the training; a short summary of the material covered; copies of any training materials distributed; and proof of attendance by relevant NYCDOE staff.

The NYCDOE 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 NYCDOE understands that during the monitoring of this Agreement, if necessary, OCR may visit the NYCDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the NYCDOE has fulfilled the terms and obligations of this

OCR Case No. 02-19-1351 - Resolution Agreement

Agreement. Upon the NYCDOE's satisfaction of the commitments made under this Agreement, OCR will close this case.

The NYCDOE 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 will give the NYCDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the NYCDOE's representative below.

1/10/2020  
Date

/s/  
Authorized Representative  
New York City Department of Education