

VOLUNTARY RESOLUTION AGREEMENT

New York City Department of Education Case No. 02-22-1076

To resolve Case No. 02-22-1076, the New York City Department of Education (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; and Title II of the Americans with Disabilities Act of 1990 (Title II), 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.

The NYCDOE affirms that it cannot provide significant assistance to any entity that discriminates against a NYCDOE student on the bases of disability, pursuant to the regulations implementing Section 504, at 34 C.F.R. § 104.3(k)(4), Title II, at 28 C.F.R. § 35.130(a), and/or race national origin, and/or color pursuant to the regulations implementing Title VI at 34 C.F.R. § 100.3(a) and (b)(1).

The NYCDOE has elected of its own accord, in response to Case No. 02-22-1076, not to grant the Manhattan Youth Organization (the Organization) an extended use permit required for the Organization to operate an after-school program at XX XX XXXXXXXX XXXXXXXXXXXXXXXX¹ (the School) for school year 2022-2023.

Action Item 1: Individual Relief for the Student

- a) If the NYCDOE grants an extended use permit to another entity to operate an after-school program at the School during school year 2022-2023, within five (5) school days of any school-based announcement of the new after-school program operating at the School, the NYCDOE will either provide, or ensure that the new entity provides, a written communication to the Complainant about the new program and a reminder that if the Student wishes to register, Complainant may request aids, benefits, or services for the Student to meet the Student's disability-related needs, if any, to participate in the after-school program at the School for school year 2022-2023.
- b) If the Student registers for the new after-school program at the School, by October 15, 2022 or within thirty (30) calendar days of registering, whichever is later, the NYCDOE will inquire of the Complainant in writing whether any request(s) she made for aids, benefits, and services to meet the Student's needs in the program for school year 2022-2023 were inappropriately denied, modified or otherwise not addressed.
- c) Within fifteen (15) school days of NYCDOE's receipt of the Complainant's response to the inquiry described in Action Item 1(b), the NYCDOE will review any request(s) the Complainant identified and take any appropriate responsive action.

¹ District Borough Number: XXXXXX.

Reporting Requirements:

- (a) Within fifteen (15) school days of the communication to the Complainant pursuant to the requirements of Action Item 1(a) above, the NYCDOE will provide to OCR documentation of such communication.
- (b) Within fifteen (15) school days of the inquiry made pursuant to the requirements of Action Item 1(b) above, the NYCDOE will provide to OCR documentation of such inquiry.
- (c) Within thirty (30) school days of the receipt of the Complainant's response to the written inquiry made consistent with Action Item 1(b), if any, the NYCDOE will provide to OCR a copy of such response and a description and/or documentation of any action the NYCDOE has taken consistent with Action Item 1(c). This description and/or documentation will include an explanation of the NYCDOE's response to any concerns the Complainant identified regarding the provision of aids, benefits and services necessary to meet the Student's needs in the new after-school program, along with the names and titles of the individuals involved.
- (d) By July 15, 2023, the NYCDOE will provide documentation to OCR demonstrating that the new after-school program and/or the NYCDOE provided the Student with the aids, benefits, and services deemed necessary to meet the Student's needs in the program for school year 2022-2023, if the Complainant has elected to enroll the Student in the after-school program.

Action Item 2: Training

- a) By July 15, 2022, the NYCDOE will issue a letter notifying the Organization that:
 - The Organization must fulfill its legal obligations to consider and make individualized determinations regarding requests for the provision of aids, benefits, and services to meet the needs of qualified NYCDOE student participants with disabilities in the Organization's after-school programs; and must not discriminate against NYCDOE student participants in its after-school programs on the basis of their race, national origin, and/or color, including but not limited to in its discipline or dismissal of student participants.
 - The NYCDOE requires that, before September 1, 2022, the Organization provide a copy of the letter to its central leadership staff and the leadership/supervisory staff at each of its after-school programs not jointly sponsored by the NYCDOE and that are operating in a NYCDOE school pursuant to an extended use permit for school year 2022-2023, and provide written confirmation to NYCDOE that the Organization sent the letter.
 - By September 30, 2022, the NYCDOE will confirm that the Organization completed the steps above.
- b) By September 7, 2022, the NYCDOE will provide training (which may be held asynchronously and remotely) to relevant personnel regarding the information set forth in the letter described in Action Item 2(a). Relevant personnel include the Organization's central leadership staff and the leadership/supervisory staff the Organization identifies at each of its after-school programs that are not jointly sponsored by the NYCDOE that, at

the time of the training, are known to be operating in a NYCDOE school pursuant to an extended use permit during school year 2022-2023.

- c) By September 10, 2022, the NYCDOE will provide a written reminder to all relevant NYCDOE administrators, including principals and special education administrators at the School and all schools where the Organization operates an after-school program that is not jointly sponsored by the NYCDOE, regarding ensuring that after-school providers that operate at their school pursuant to an extended use permit and are not jointly sponsored by the NYCDOE: (1) consider, on an individualized basis, requests for the provision of aids, benefits, and services to meet the needs of qualified NYCDOE student participants with disabilities in after-school programs; and (2) such programs' obligations to not discriminate against NYCDOE student participants in the after-school program on the basis of their race, national origin, and/or color, including but not limited to in the programs' discipline or dismissal of student participants.

Reporting Requirements:

- (a) By July 11, 2022, the NYCDOE will provide to OCR a draft of the letter to the Organization consistent with Action Item 2(a), for OCR's review and input. OCR will provide any input to the NYCDOE within three (3) business days of receiving the NYCDOE's draft letter.
- (b) Within five (5) school days of the NYCDOE's sending the letter described in Action Item 2(a) to the Organization, the NYCDOE will provide a copy of the letter to OCR.
- (c) By October 15, 2022, the NYCDOE will provide documentation from the Organization confirming that Organization central leadership staff and the leadership/supervisory staff at each of its after-school programs not jointly sponsored by the NYCDOE for school year 2022-2023, has received the NYCDOE's letter described in Action Item 2(a). This confirmation shall include each recipient's name, title, the date on which the letter was read, and acknowledgment that it was understood.
- (d) By October 31, 2022, the NYCDOE will provide to OCR documentation demonstrating that it provided training in accordance with Action Item 2(b). The documentation will include, at a minimum, the name(s) and credentials of the individual(s) providing the training; the agenda and/or a summary of the material covered; the names and titles of attendees; the date(s) and time(s) the training; and copies of all training materials disseminated.
- (e) By September 30, 2022, the NYCDOE will provide to OCR documentation demonstrating that it provided the written reminder in accordance with Action Item 2(c).
- (f) By July 15, 2023, the NYCDOE will provide to OCR a list of any requests that the Organization and/or the NYCDOE received for school year 2022-2023, for aids, benefits, and services to meet the needs of qualified NYCDOE student participants with disabilities at each of the Organization's after-school programs that are not jointly sponsored by the NYCDOE and that operated pursuant to an extended use permit at NYCDOE schools for school year 2022-2023. The NYCDOE also will provide to OCR: a description of the Organization's and/or NYCDOE's responses to all such requests, including whether the request was approved or denied; if the request was denied or granted with modifications, the NYCDOE will provide an explanation for

decisions made by the Organization or NYCDOE; the name(s) and title(s) of all Organization and/or NYCDOE staff who considered the request; and the site location where the request was made.

- (g) By July 15, 2023, the NYCDOE will provide to OCR a list from the Organization of any student participants who were dismissed from the Organization's after-school program that is not jointly sponsored by the NYCDOE and that operated in a NYCDOE school pursuant to an extended use permit for school year 2022-2023. The list will include the student's race and whether the NYCDOE has identified the student participant as a qualified individual with a disability, including with a Section 504 Plan or Individualized Education Program (IEP) and has sought aids, benefits or services in the Organization's program; a detailed description of the student participant's conduct that resulted in the dismissal; and the reason(s) for the dismissal, including the date of the dismissal and site location; and the name(s) and title(s) of Organization staff involved in the dismissal.
- (h) By July 15, 2023, the NYCDOE will provide to OCR a list from the Organization of all students enrolled at any of the Organization's after-school programs operating in a NYCDOE school that is not jointly sponsored by the NYCDOE for school year 2022-2023, and provide each student participant's race and whether the NYCDOE has identified the student participant as a qualified individual with a disability, including with a Section 504 Plan or IEP.

Action Item 3: Letters to Parents

By September 20, 2022, the NYCDOE will send a letter to all parents of students at NYCDOE schools where the Organization has an extended use permit for the Organization's after-school programs that are not jointly sponsored by the NYCDOE and that are operating at NYCDOE schools pursuant to an extended use permit, as well as to parents at the School if the NYCDOE grants an extended use permit to another entity to operate an after-school program at the School during school year 2022-2023, reminding them that the Organization: is obligated to consider and make individualized determinations regarding requests for the provision of aids, benefits, and services to meet the needs of qualified NYCDOE students with disabilities participating in the Organization's after-school programs; and must not discriminate against participating students on the bases of their race, national origin, and/or color. The NYCDOE will also continue to track and address any complaints or concerns parents raise to the NYCDOE about any of the Organization's after-school programs that are not jointly sponsored by the NYCDOE and that are operating in NYCDOE schools for school year 2022-2023 pursuant to an extended use permit and will respond promptly to resolve any issues that may arise.

Reporting Requirement:

By December 1, 2022, the NYCDOE will provide to OCR a copy of the letter it sent to parents, consistent with Action Item 3.

If the Organization or any new after-school entity that operates at the School for school year 2022-2023 impedes NYCDOE's efforts to comply with the Action Items and Reporting Requirements contained in this Agreement (including furnishing data to the NYCDOE in accordance with

Reporting Requirements 2(a), 2(c), 2(f), 2(g), and 2(h)), the NYCDOE will take appropriate responsive action, which may include revoking the Organization’s and/or the new after-school entity’s existing extended use permit(s) and/or denying their future permit(s).

OCR Monitoring

The NYCDOE understands that by signing this resolution agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. Further, the NYCDOE understands that during the monitoring of the resolution 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 the resolution agreement.

The NYCDOE understands that OCR will not close the monitoring of this resolution agreement until OCR determines that the NYCDOE has demonstrated compliance with all the terms of this resolution agreement and is in compliance with Section 504 and its implementing regulations at 34 C.F.R. Part 104, Title II and its implementing regulation at 28 C.F.R. Part 35, and Title VI and its implementing regulation at 34 C.F.R. Part 100, which were at issue in this case.

The NYCDOE understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the resolution agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will provide 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.

7/11/2022
Date

/s/
Toni Gantz
Executive Deputy Counsel
New York City Department of Education