

## **VOLUNTARY RESOLUTION AGREEMENT**

### **New York City Department of Education Case No. 02-23-1109**

To resolve Case No. 02-23-1109, 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.

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

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

- (a) If the NYCDOE grants an extended use permit to the South Bronx Overall Economic Development Corporation (SoBro) to operate an after-school program at the [redacted content] (the School) during school year 2023-2024, within five (5) school days of any school-based announcement of the after-school program operating at the School, the NYCDOE will provide, or ensure that SoBro provides, a written communication to the Complainant about the after-school program and a reminder that if the Complainant's son (the Student) wishes to register, the Complainant may request aids, benefits, or services for the Student to meet the Student's disability-related needs, if any, to participate in SoBro's after-school program at the School for school year 2023-2024.
- (b) If the Student registers for SoBro's after-school program at the School, by October 15, 2023, or within thirty (30) calendar days of the Student's registration, whichever is later, the NYCDOE will ask 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 2023-2024 were inappropriately denied, modified, or otherwise not addressed.
- (c) Within fifteen (15) school days of the 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.

#### **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 the response and a description and/or documentation of any action the NYCDOE and/or SoBro has taken consistent with Action Item 1(c). This description and/or

documentation will include an explanation of the NYCDOE’s and/or SoBro’s response to any concerns the Complainant identified regarding the provision of aids, benefits, and services necessary to meet the Student’s needs in SoBro’s after-school program, along with the names and job titles of the individuals involved.

- (d) By July 15, 2024, the NYCDOE will provide documentation to OCR demonstrating that SoBro 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 2023-2024, if the Complainant elected to enroll the Student in SoBro’s after-school program.

**Action Item 2: Training**

- (a) By August 15, 2023, the NYCDOE will issue a letter notifying SoBro that:
- SoBro 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 all SoBro’s after-school programs that are operating in a NYCDOE school pursuant to an extended use permit.
  - The NYCDOE will require that before September 1, 2023, SoBro provide a copy of the letter to its central leadership staff and the leadership/supervisory staff at each of its after-school programs that are operating in a NYCDOE school pursuant to an extended use permit for school year 2023-2024, and provide written confirmation to NYCDOE that SoBro sent the letter.
  - By September 30, 2023, the NYCDOE will confirm that SoBro completed the steps above.
- (b) By September 7, 2023, 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 SoBro’s central leadership staff and the leadership/supervisory staff SoBro identifies at each of its after-school programs 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 2023-2024.
- (c) By September 22, 2023, the NYCDOE will provide a written reminder to all NYCDOE schools regarding ensuring that any after-school providers that operate at their school pursuant to an extended use permit during school year 2023-2024 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.

**Reporting Requirements:**

- (a) By August 25, 2023, the NYCDOE will provide to OCR a copy of the letter described in Action Item 2(a) that the NYCDOE sent to SoBro.
- (b) By October 15, 2023, the NYCDOE will provide documentation to OCR from SoBro confirming that SoBro central leadership staff and the leadership/supervisory staff at each of its after-school programs for school year 2023-2024, has received the NYCDOE’s letter described in Action Item 2(a). This confirmation shall include each recipient’s name, job title, the date on which the letter was read, and acknowledgment that it was understood.

- (c) By October 31, 2023, 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 job titles of attendees; the date(s) and time(s) the training; and copies of all training materials disseminated.
- (d) By October 15, 2023, the NYCDOE will provide to OCR documentation demonstrating that it provided the written reminder in accordance with Action Item 2(c).
- (e) By July 15, 2024, the NYCDOE will provide to OCR a list of any requests that SoBro and/or the NYCDOE received for school year 2023-2024, for aids, benefits, and services to meet the needs of qualified NYCDOE student participants with disabilities at each of SoBro's after-school programs that operated pursuant to an extended use permit at NYCDOE schools for school year 2023-2024. The NYCDOE also will provide to OCR: a description of SoBro'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 SoBro or NYCDOE; the name(s) and job title(s) of all SoBro and/or NYCDOE staff who considered the request; and the site location where the request was made.
- (f) By July 15, 2024, the NYCDOE will provide to OCR a list from SoBro of any applicants who were not admitted to any SoBro after-school program that operated in a NYCDOE school pursuant to an extended use permit for school year 2023-2024. The list will include whether the applicant is a qualified individual with a disability (e.g. has a Section 504 Plan or Individualized Education Program (IEP)) and sought and/or was offered aids, benefits, or services in SoBro's program; and the reason(s) for the denial of admission, including the date of the decision and site location; and the name(s) and job title(s) of SoBro staff involved in the admissions decision.

### **Action Item 3: Letters to Parents**

By September 20, 2023, the NYCDOE will ensure SoBro sends a letter to all parents of students registered in SoBro's after-school programs at NYCDOE schools that are operating pursuant to an extended use permit for SoBro's after-school programs, reminding them that SoBro and/or the NYCDOE is/are 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 SoBro's after-school programs. The NYCDOE will also continue to track and address any complaints or concerns parents raise to the NYCDOE about any of SoBro's after-school programs that are operating in NYCDOE schools for school year 2023-2024 pursuant to an extended use permit and will respond promptly to resolve any issues that may arise.

### **Reporting Requirement:**

By December 1, 2023, the NYCDOE will provide to OCR a copy of the letter SoBro sent to parents, consistent with Action Item 3.

