

**Resolution Agreement
XXX County School District
OCR Docket Number 04-13-1318**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation of the XXX County School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability in all programs and activities that receive Federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability in public elementary and secondary education systems. Prior to the completion of OCR's investigation, the District asked to resolve the complaint pursuant to Section 302 of OCR's Case Processing Manual (CPM).

The District agrees to take all steps reasonably designed to ensure that students enrolled in the School are not subject to a hostile environment on the basis of disability and the District will promptly investigate all incidents and complaints of harassment. Harassing conduct may take many forms, including verbal acts and name calling; graphic and written statements, which may include use of cell phones or the internet; or other conduct that may be physically threatening, harmful or humiliating. The District will take prompt and effective responsive action reasonably designed to end the hostile environment, if one has been created, prevent its recurrence, and, where appropriate, take steps to remedy the effects of the hostile environment on the affected student (s). Accordingly, to ensure compliance with Section 504, and Title II, and its implementing regulations, 34 C.F.R. Part 104 and 28 C.F.R. Part 35, and to resolve the issues of this investigation, the District voluntarily agrees to take the following actions:

Student-Focused Remedies

1. **By April 30, 2014**, the District will offer the Complainant the opportunity to re-enroll the Student at the School for the remainder of the 2013-14 school year or by the start of the 2014-15 school year, and advise her that the Student will receive appropriate related aids and services to ensure that the Student is in a peanut-free environment. The letter will also advise the Complainant that the Student will be evaluated for compensatory education services to determine whether she suffered any educational loss during the time period of XXX, when she was not in school.

REPORTING REQUIREMENT: (a) By **May 15, 2014**, the District will provide a copy of the letter and notification of whether the Student re-enrolled for the remainder of the 2013-14 school year. (b) If the Student does not re-enroll in the District for the 2014-15 school year, the District will notify OCR in writing by **October 30, 2014**.

2. **Within 30 calendar days of the Student's enrollment**, the District will convene a group of persons knowledgeable about the Student, the evaluation data, and the placement options, including the Student's parents (or Complainant), to determine what compensatory education or other remedial services the Student requires for the time period the Student did not receive from

April 29, 2013 to May 24, 2013. The group will develop a written plan for providing the Student with the compensatory education deemed necessary, which plan will identify the nature and amount of the services to be provided at no cost to the Student's parents, by whom, and when, and will become part of the Student's Section 504 plan. The District will provide the Student's parents with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

REPORTING REQUIREMENTS:

- (a) **Within 10 calendar days of completion of the Student's evaluation**, the District will submit to OCR for review and approval documentation showing implementation of Item 2 above, including a copy of any meeting minutes, a copy of any plan developed for the Student, documentation of any input provided by the Student's parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with Action Item 2 above. Should the District determine that no compensatory education or other remedial services were necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. 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) **Within 30 calendar days of the District's completion the provision of compensatory educational services**, the District will provide documentation to OCR of the dates, times, and locations that the compensatory education were provided to the Student, including the name(s) and title(s) of the service provider(s).

4. **Within 30 calendar days of the Student's enrollment**, the School's Section 504 team will convene to determine the appropriate related aids and services that the Student will receive to ensure that she will be in a peanut-free environment. The meeting will be attended by persons knowledgeable about the Student, the evaluation data and the placement options, including the Student's parents (or Complainant), who will review and consider the medical documentation concerning the Student's peanut allergy. At a minimum, the District will consider how the School can be made peanut-free so that she may fully participate safely in all the programs and activities of the School to the same extent as students without disabilities. If the Student requires a service animal in order to participate safely in the School's programs and activities and can demonstrate that she has control of the service animal, the School will permit the Student to be accompanied by the service animal in all areas of the School's facilities that students without disabilities are allowed to go. If there are students and staff at the School who are allergic to the service animal, the School will devise a plan, if possible, to accommodate their needs and the Student's needs by assigning them to different locations within a classroom or to different rooms in the School building. Any training that the School deems necessary to ensure that its student body and staff understand how they must behave with the service animal will be conducted by School staff.

REPORTING REQUIREMENT: Within 30 calendar days of the meeting, the District will provide OCR with the Student's updated Section 504 plan, notice of procedural safeguards provided to the Complainant, the minutes of the Section 504 team meeting and all supporting documentation, including evaluation results, medical reports, notes or reports of how the Student's need for a service animal will be accommodated, if applicable. If the team determines that the Student may not bring her service animal to School, the District will provide detailed justification for this decision for OCR's review and approval. If the team determines that the Student may bring her service animal to school, the Section 504 plan should provide that the Student will be able to participate in all programs and activities of the School to the same extent as students without disabilities. If there are students or staff that are allergic to the service animal, the District will provide OCR with a plan that the School will devise to ensure that the needs of the Student and the needs of staff and other students are accommodated in an equitable and appropriate manner. The District will also provide OCR with a report of any training conducted with the student body and staff, if any, on how to behave around service animals.

Procedural Remedies

5. **By May 15, 2014,** the District will revise its Service Animal Policy to ensure that it complies with the requirements of Section 504 and Title II by including the following: (a) Allergies and fear of dogs is not a valid reason(s) for denying access or refusing services to persons with service animals. For example, in a classroom, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility; (b) Persons with disabilities who use service animals cannot be isolated from others, treated less favorably than others or charged fees that are not charged to others without animals; and (c) The District will be responsible for providing training to school staff and students, if needed, on appropriate behavior and/or conduct to utilize when around a service animal at school.

REPORTING REQUIREMENT: (a) **By May 30, 2014,** the District will submit to OCR for review and approval, a copy of its revised Service Animal Policy.

6. **By June 30, 2014 or within 15 calendar days of receipt of notice of OCR's approval of the revised Service Animal Policy,** whichever is later, the District will adopt the revised Service Animal Policy and distribute the policy to School staff and as well as at other District schools. The District will also publish the policy in special education/Section 504 manuals, student handbooks and on the District's website.

REPORTING REQUIREMENT: By July 30, 2014, or within 30 calendar days of completion of Item #6, whichever is later, the District will provide OCR with documentation that it has implemented Item #6 above, including copies of its publications that contain the revised policy and links to its webpage where the revised policy is located.

7. **By May 15, 2014,** the District will revise and/or develop appropriate Section 504 grievance procedures, as required by 34 C.F.R. § 104.7(b), to address complaints of disability

discrimination (including disability harassment) involving students, employees and other third parties and will submit these procedures to OCR for their review and approval.¹ The District will ensure that these procedures provide for the prompt and equitable resolution of complaints alleging disability discrimination and will include, at a minimum, the following standards:

- a. Identify by, name or title, office address and telephone number, the person responsible for coordinating compliance of Section 504/Title II;
- b. Notice of the grievance procedures and instructions regarding how and where to file a complaint, including a provision for an alternate official to accept complaints where the complaint is against the person who normally receives them;
- c. Designate reasonably prompt timeframes for each stage of the investigation and appeal, if any is provided;
- d. Provide for an adequate, reliable, and impartial investigation of complaints, including the opportunity for the complainant and alleged perpetrator to present witnesses and other evidence;
- e. An assurance that remedial action necessary to address and resolve any found incident(s) of discrimination and to prevent the recurrence of any discrimination will be taken; such remedial action may include, as appropriate, counseling to the harasser as a means to prevent recurrence of future harassment, disciplinary sanctions, strategies to protect the individual subjected to the harassment and witnesses from retaliation, counseling for the victim of the harassment, other steps to address any impact on the victim of the harassment, witnesses and the broader student body, and any other necessary steps reasonably calculated to prevent future occurrences of harassment;
- f. Provide interim steps to ensure the safety and well-being of the victim and the school community;
- g. Provide notice to both parties of the outcome of the complaint investigation; and
- h. Provide both parties an opportunity to appeal, if one is provided.

REPORTING REQUIREMENT: By **May 30, 2014**, the District will submit to OCR for review and approval its grievance procedures referenced in Item #7.

8. By June 30, 2014 or within 15 calendar days of written notification from OCR that the revised grievance procedures have been approved, whichever is later, the District will adopt and implement the procedures and will publish the procedures on the District's and individual school's websites and in all schools' student handbooks.

REPORTING REQUIREMENT: By July 30, 2014, or within 30 calendar days after the completion of Item #8, the District will provide OCR with documentation that it has implemented Item #8 above, including copies of its revised student handbooks and links to the schools and District webpages where the revised procedures are located.

¹ The District does not have to develop separate grievance procedures. The District can amend its existing school board policies and grievance procedures for harassment/discrimination based on sex, race and ethnic origin, (code 6.304 and 6.305) to incorporate disability harassment/discrimination complaints.

9. **By May 15, 2014**, the District will revise for OCR's approval, its notice of nondiscrimination to include contact information i.e. name or title, telephone number and address, for persons designated to handle inquiries regarding the District's nondiscrimination policies as required by the Age Discrimination Act of 1975 (Age Act) and include the telephone number(s) of the person(s) responsible for coordinating compliance of Title IX, Section 504 and Title II. Upon OCR's approval, the revised notice of nondiscrimination will be placed in all publications containing general information about the District, including student and employee handbooks, announcements, bulletins, catalogs, application forms, the websites of the District and individual schools within the District (individual schools) and other documents that it makes available to students, parents, employees, and other interested persons.

REPORTING REQUIREMENT (a) **By May 30, 2014**, the District will submit to OCR, for review and approval, a copy of its revised notice of nondiscrimination in accordance with Item #9 above.

10. **By June 30, 2014, or within 30 calendar days of OCR's approval of the revised notice**, whichever is later, the District will adopt and publish the notice of nondiscrimination in all District publications and on the District's and individual schools' websites.

REPORTING REQUIREMENT: **By July 30, 2014 or within 30 calendar days of completion of Item #10**, whichever is later, the District will provide OCR copies of its publications containing the notice of nondiscrimination revised in accordance with Item #9 above and documentation demonstrating that the District has disseminated such publications. The District will also provide OCR with links to the District's and the individual schools' webpages that set forth the revised notice.

Training Remedy

11. **By August 28, 2014**, OCR will provide training to District administrators as well as School administrators, teachers, and staff responsible for developing and implementing Section 504 plans at the School regarding Section 504 and Title II obligations to ensure that they comply with regulations with respect to accommodating students with service animals and to ensure students with service animals are not treated differently from students without disabilities with regard to access to programs and/or activities unless specified in the student's individual education plan or Section 504 Plan. Additionally, the OCR training will include the prohibition of harassment on the basis of disability and the revised grievance procedures. Annually thereafter, the District will provide the training as set forth in this paragraph to appropriate staffs in all of its schools.

REPORTING REQUIREMENT: **Within 15 calendar days of completion of the initial annual in-service training described in Item #11**, the District will provide a sign-in sheet showing that all staff responsible for the creation and implementation of Section 504 plans at the School attended the training. The list will show the names and titles of District and School employees who participated in the training session.

Climate Survey

12. **By June 1, 2014**, and annually thereafter, the District will conduct a climate survey of students in the School to assess the effectiveness of steps taken pursuant to this Resolution Agreement or otherwise by the District, to achieve its goal of the School being free of harassment. Students' participation in the survey will be voluntary.

REPORTING REQUIREMENTS:

(a) **By May 1, 2014**, if the District chooses to conduct a climate check by issuing a survey, the District will provide OCR with a copy of a proposed survey for OCR's review and approval.

(b) **Within 30 calendar days of approval from OCR or by September 15, 2014**, whichever is later, the District will disseminate the climate check survey to the School's students.

(c) **By October 30, 2014**, the District will provide documentation to OCR demonstrating that the School has conducted the climate check, an analysis of the information obtained by the climate check, and a description of the proactive steps to be taken by the School to ensure a campus free of disability harassment as well as other harassment prohibited by other laws OCR enforces.

District Statement Regarding Harassment

13. **By April 30, 2014**, the Superintendent will issue a statement to the School's students, parents and staff that will be printed in the School's newsletter, website, student handbook and posted in prominent locations at the School, stating that the District does not tolerate harassment on the bases of disability. The statement will encourage any student who believes that he or she has been subjected to harassment on the basis of disability to report the harassment to the District, and note the District's commitment to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects. The statement will include the appropriate contact information for the individual designated to receive complaints of harassment on the basis of disability. The statement will warn that students or employees found to have engaged in acts of harassment on the basis of disability will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension or expulsion for students or suspension or termination for employees. The statement will encourage students, parents and School staff to work together to prevent harassment on the basis of disability. The School will distribute this statement in languages other than English, as necessary.

REPORTING REQUIREMENT: **By May 30, 2014**, the District will provide OCR with a copy of the statement referred to in Item #13 along with a description of where the statement was published.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the District understands that during the monitoring of

this Agreement, 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)(i)-(iv), (vii), 104.7(b), 104.33(a) and (b), and the Title II implementing regulation at 28 C.F.R. §§ 35.130(a), (b)(1)(i)-(iv), (vii), 35.107 and 35.136 (a)-(g); the regulation implementing Title IX at 34 C.F.R. §106.8(a) and the regulation implementing the Age Act 34 C.F.R. § 110.25 which were at issue in this investigation.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations cited above which were at issue in this investigation.

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 a minimum of sixty (60) calendar days to cure the alleged breach.

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

/s/

April 2, 2014

Superintendent

Date