

Resolution Agreement # 05-12-1363
St. Paul Public School District No. 625

St. Paul Public School District (District) agrees to resolve the allegation of discrimination on the basis of disability contained in complaint number 05-12-1363 filed with the U.S. Department of Education, Office for Civil Rights (OCR). The District submits this Resolution Agreement (Agreement) to ensure compliance with 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35. The District agrees to take the following actions:

Action Item: Disability Harassment

Definition

As used in this Agreement, the term “harassment” consists of verbal acts or name-calling, as well as nonverbal behavior, such as graphic and written statements, or other conduct that is physically threatening, harmful, or humiliating, including abusive behavior, derogatory language, intimidation, threats, and unwanted physical contact and/or physical violence, including the use of images in graffiti, pictures or drawings, notes, e-mails, and/or phone messages or other online media, which are based on disability, and are sufficiently serious (severe, pervasive, or persistent) to interfere with or deny a student's ability to participate in or benefit from the services, activities or opportunities offered by a school. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

Anti-Harassment Statement

1. By January 12, 2015, the Superintendent and School Board agree to issue a statement to all L’Etoile Du Nord French Immersion School (School) students, parents and staff that will be printed in the School’s newsletter, posted in prominent locations at the School, and published on the District’s website, stating that the District does not tolerate acts of harassment, including acts of harassment based on disability. The statement will include a definition of harassment as well as a provision pledging that the District will not tolerate or ignore conduct including “bullying” that is based on disability¹ that is that is sufficiently serious to create a hostile environment; the statement will encourage any student who believes he or she has been subjected to harassment or a hostile environment to report it to the District and it will note the District’s commitment to conducting a prompt investigation and taking appropriate action. The statement will warn that students and staff found to have engaged in acts of harassment based on disability will be promptly disciplined and make clear that such discipline may include, if circumstances warrant, suspension and expulsion. The statement will encourage students, parents and District staff to work together to prevent acts of harassment of any kind.

¹ The District may include other bases of prohibited harassment.

Reporting Requirement:

By January 20, 2015, the District agrees to provide OCR with documentation demonstrating implementation of item 1. In particular, the District will provide a copy of the statement issued by the Superintendent and School Board, documentation of the posting of the statement, and the location on the District's website where the statement may be found.

Anti-Discrimination and Harassment Policies and Procedures

2. By January 12, 2015, the District agrees to update its anti-disability discrimination and disability harassment policies and procedures² to ensure that the District will adequately address and provide the District sufficient options for responding promptly and appropriately to reported incidents of discrimination and/or harassment on the basis of disability. The anti-discrimination and harassment policies or procedures will include at a minimum:
 - A. A statement setting forth the District's commitment to having a school environment free from all discrimination and/or harassment on the basis of disability. The statement must explain that the District prohibits discrimination and/or harassment in the District environment, including all academic, extra-curricular and District-sponsored activities whether on or off campus. The statement will encourage students to immediately report incidents of discrimination and/or harassment. The statement will emphasize that all employees, including faculty, staff, administrators, security officers and coaches are required to refrain from harassing students and are required to promptly report incidences of harassment. The statement will specify that the District will investigate formal and informal complaints of discrimination and/or harassment.
 - B. Definitions with specific examples of the type of conduct and behavior that is prohibited by the policy, including examples of staff-to-student and student-to-student conduct.
 - C. Identification of the kinds of activities and sites where prohibited conduct could occur.
 - D. A notice that the procedures apply to complaints of discrimination and/or harassment raised by employees, students, or third parties;
 - E. An explanation of how to report discrimination and/or harassment and/or file a complaint (formally or informally).

² The District may include other bases of prohibited discrimination and harassment.

- F. A description of the District's informal and formal complaint procedures, including a Complaint Form, designated prompt timeframes for the District's investigation of a complaint and a requirement that written notice of the outcome be provided to the parties.
- G. Specific information as to the name or title and contact information (including office and email address and telephone number) for the District employee(s) responsible for receiving the Complaint Form and/or investigating reports of discrimination and/or harassment. This information shall include an alternate Coordinator, in the event that the designated Coordinator has a conflict of interest or is named as the accuser in a complaint.
- H. A requirement that the designated District employee(s) document all reports of incidents of discrimination and/or harassment and that the District establish a protocol for recordkeeping.
- I. A recommendation that District staff who observe acts of discrimination and/or harassment intervene to stop the discrimination and/or harassment, unless circumstances would make such intervention dangerous and a requirement that District staff report such incidents to the Coordinator.
- J. The interim and permanent steps the District will take to stop the discrimination and/or harassment, remedy the discrimination and/or harassment and prevent recurrence including examples of the range of possible disciplinary sanctions and remedies available to address the discriminatory effects on the complainant and others. The procedures will include specific discussions with the complainant about any necessary counseling, academic support or transcript modification, and the academic and/or extracurricular activities of the parties to determine if adjustments in schedules are necessary. The procedures will explain that any adjustments made will be designed to minimize the burden on the complainant's educational program.
- K. The prohibition of actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of harassment or the participation in proceedings applies to third parties as well as accused students.
- L. The medical and counseling resources that are available to students and witnesses.
- M. Identification of the means the District will use to investigate incidents of discrimination and/or harassment, including but not limited to the following:
 - i. The various steps the District will take to conduct adequate, reliable and impartial investigations of reported incidents, including review of statements obtained from

- either party, interviews with both parties, interviews with witnesses as appropriate, and review of relevant documentary evidence.
- ii. The District's standard of review for determining whether a hostile environment exists including a statement that evidence submitted in the investigation will be reviewed using a preponderance of the evidence standard; and
 - iii. An assurance that the District will keep the complaint and investigation confidential to the extent possible.
3. By January 12, 2015, the School agrees to review its employee handbook to determine whether it contains rules of behavior, offense categories, and disciplinary procedures to appropriately address violations of the District's anti-discrimination and harassment policies applicable to staff, as developed pursuant to item 2. The School agrees to revise the School's employee handbook to the extent necessary to ensure it contains, or otherwise incorporates by reference, such rules of behavior, offense categories and disciplinary procedures, as developed pursuant to item 2.

Reporting Requirement:

By January 20, 2015, the District will submit the employee handbook revised pursuant to item 3 to OCR for approval.

4. Within 120 days of receipt of notice of OCR's final approval of the policies and procedures submitted to OCR³, as described in items 2 and 3, the District will adopt the policies and procedures. Within 20 days after adoption of the policies, the District will implement and publish the policies and procedures. Publication will include written notice of the anti-discrimination and harassment policy and procedures, including its formal and informal complaint procedures, to the School community, including students, parents, and administrators and staff. The District will make this notification through its website as well as by any other means of notification the District deems effective to ensure that the information is widely disseminated. As appropriate, the District will also update its parent, student, and employee handbooks, if any.

Reporting Requirement:

Within 45 days after adoption of the policies, the District agrees to provide OCR with a report demonstrating implementation of item 4. In particular, the District will provide copies of publications showing the revised documents, copies of any handbooks revised, and the location on the District's website where the policies and procedures may be found.

³ The District's Board of Education requires three (3) readings at Board meetings prior to the adoption of policies and procedures.

Data Collection

5. At the conclusion of the 2014-2015 school year, the District will review all reports/grievances/ complaints of disability discrimination/harassment at the School and District's response during the preceding school year. The review will comprise an evaluation and analysis of the data collected, including a disaggregated assessment of whether the reported incidents of disability discrimination or harassment have increased or decreased in number and severity or whether students were denied FAPE as a result of disability harassment.

Reporting Requirements:

By no later than September 11, 2015, and by September 11 of all subsequent years this Agreement remains in effect, the District shall provide OCR with a report on its analysis of the disability discrimination or harassment reports/grievances/complaints at the School during the preceding school year and will provide OCR with access to the back-up data.

Climate Survey

6. Prior to the end of the 2014-2015 school year, the District shall administer a school climate survey at the School to be used on an annual basis for School students and staff to assess the presence and effect of harassment based on disability.

Reporting Requirements:

- a. Prior to administration of the school climate survey, the District shall submit the proposed school climate survey to OCR for review and approval, along with an explanation of how the District intends to implement the school climate survey this year and for subsequent school years. If OCR has any objections, OCR shall inform the District of its objections within twenty (20) business days after receiving the proposed school climate survey and implementation plan.
- b. By no later than September 11, 2015, and by September 11 of all subsequent years this Agreement remains in effect, the District shall conduct the survey and provide a summary of the results of the survey to OCR administered during the preceding school year and will provide OCR with access to the survey data.

Staff and Student Training

7. By March 27, 2015, and annually thereafter, the District agrees to provide effective training to all School teachers, administrators, counselors and aides, and any other School

personnel charged with supervising students on the policies and procedures referenced in items 2 and 3 of this Agreement. The training will specifically address the responsibility of staff to refrain from harassing students and to report incidents of possible harassment and the procedures for doing so, and provide instruction on how to recognize, prevent, document and respond appropriately to such harassment. The District will administer to each employee who attends the training session a survey, which is designed to gauge the effectiveness of the training.

Reporting Requirements:

By April 10, 2015, and by April 10 of all subsequent years this Agreement remains in effect, the District agrees to provide OCR with a report demonstrating implementation of item 7. In particular, the District will provide a copy of all of the completed employee surveys, documentation indicating the date of the training, lists of the trainers and attendees, topics covered during the programs and the amount of time spent on each topic, and copies of the materials used in the training.

8. By March 27, 2015, and annually thereafter for new staff, the District agrees to provide effective training to all School staff who are directly involved in processing, investigating and/or resolving complaints or other reports of discrimination on the basis of disability, including harassment complaints, as well as any counselors or other District personnel who are likely to receive confidential reports of disability harassment. The training will review the District policies and procedures referenced in items 2 and 3 of this Agreement and include instruction on how to conduct and document adequate, reliable, and impartial discrimination or harassment investigations, including the appropriate legal standards to apply in such investigations. The District will administer to each employee who attends the training a survey, which is designed to gauge the effectiveness of the training.

Reporting Requirements:

By April 10, 2015, and by April 10 of all subsequent years this Agreement remains in effect, the District agrees to provide OCR with a report demonstrating implementation of item 8. In particular, the District will provide a copy of all of the completed employee surveys, documentation indicating the date of the training, lists of the trainers and new staff attendees, topics covered during the programs and the amount of time spent on each topic, and copies of the materials used in the training.

9. By March 27, 2015, and annually thereafter, the District agrees to provide an effective orientation training program for all School students, administrators, staff, employees, agents, security officers, counselors, and coaching staff, which will address harassment and retaliation, including, but not limited to, disability harassment, in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on disability for students enrolled in the District. The District agrees to remind

students of its commitment to having a School environment free from all harassment and explain to students what they should do if they believe they or other students are being harassed. The program will include a review of the District's harassment policies and procedures, including an explanation of what harassment on the basis of disability is, as well as disciplinary sanctions related to findings of violations of its harassment policies and the policy prohibiting retaliation. The District will also provide students with the name and contact information of a District employee that the students may contact if they wish to confidentially discuss any concerns they have and will remind students of the availability of counseling services. The District will distribute written materials (including in languages other than English as necessary) during the program that contain the information discussed.

Reporting Requirements:

By April 10, 2015, and by April 10 of all subsequent years this Agreement remains in effect, the District agrees to provide OCR with a report demonstrating implementation of item 9. In particular, the District will provide documentation indicating the dates of the orientation, lists of the presenters, topics covered during the program and the amount of time spent on each topic, and copies of the materials used in the orientation and an evaluation of the effectiveness of the program.

10. By March 27, 2015, the District agrees to provide effective training to all School teachers, counselors, administrators and aides on the District requirements under Section 504. At a minimum, the training will address the Section 504 regulation at 34 C.F.R. § 104.4(a), 34 C.F.R. § 104.32, and 34 C.F.R. § 104.33, 34 C.F.R. § 104.34 and 34 C.F.R. § 104.35 and § 104.36. The District will administer to each employee who attends the training a survey, which is designed to gauge the effectiveness of the training.

Reporting Requirement:

By April 10, 2015, the District will submit a report to OCR with supporting documentation demonstrating that the training referenced in item 10 has been provided. The District will also provide the name, title and credentials of the trainer, a copy of the materials used in the training and a copy of the sign-in sheet depicting the names and job titles of the training attendees.

Action Item: Student Focused Remedies

Section 504 Plan

11. By November 21, 2014, District will send a letter to the parents of Student A, informing them that if they choose to re-enroll Student A in a District school anytime during the remainder of the 2014-2015 school year or before January 1, 2016 for 2015-2016 school year, the District will, upon the parents' or a parent's written request made within 10

school days of Student A's re-enrollment, convene a Section 504 meeting to determine if Student A experienced a loss of educational services at LNFI during the 2011-12 school year and whether the student requires compensatory, remedial, and/or counseling services. District will provide Student A's parent(s) notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

If a Section 504 meeting is requested by the parent(s), it shall include a group of knowledgeable persons, including Student A's parents, to determine whether Student A needs compensatory educational, remedial and/or counseling services as a result of the District's failure to provide appropriate regular and/or special education or related services during the 2011-2012 school year. If so, within one week of its determination, the group will develop a plan for providing timely compensatory educational, remedial and/or counseling services. The District will provide Student A's parent(s) with notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements:

- a. By December 15, 2014, the District will provide OCR with a copy of the letter it sent to Student A's parents described in item 11. If Student A does not re-enroll at a District school during the 2014-2015 school year or before January 1, 2016 for 2015-2016 school year, the District will notify OCR in writing by January 15, 2016.
- b. Within 2 weeks of the decision as to whether compensatory educational, remedial and/or counseling services are needed, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory educational, remedial and/or counseling services (if any) to Student A. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation 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.
- c. By July 1, 2015 and by July 1, 2016 if applicable, the District will provide documentation to OCR of the dates, times and locations that compensatory educational, remedial and/or counseling services were provided, a description of what was provided, and the name(s) of the service provider(s).

Action Item: Community Task Force

12. The District shall establish a task force comprised of School parents and teachers of students with disabilities to make recommendations to the School regarding the

effectiveness of the School's implementation of Section 504 as it pertains to the implementation of special education and related aids and services and its anti-disability discrimination and harassment program. This task force will seek recommendations from the School parents and teachers concerning the School's implementation of Section 504 plans and the prevention of disability-based discrimination and harassment. To that end, the District shall empower the task force to:

- a. Designate a District employee to coordinate the group's meetings and work.
- b. Provide District officials with input regarding strategies for preventing disability discrimination and harassment, and strategies for ensuring that School staff implement Section 504 plans.
- c. Provide specific suggestions for developing an effective orientation program, as described in item 9 that promotes respect and tolerance for others and takes steps reasonably designed to prevent disability-based discrimination and harassment.
- d. The designated District employee will prepare a written summary of the recommendations and suggestions of the task force.

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 regulation implementing Section 504 at §104.4, and Title II at §35.130 which were at issue in this case.

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 regulation implementing Section 504 at §104.4, and Title II at §35.130 which were at issue in this case, which were at issue in this case.

Approved and agreed to and on behalf of District:

Superintendent or designee

Date