

Settlement Agreement OCR Complaint 05-13-1342

The Sunman-Dearborn Community School Corporation (Corporation) submits the following Settlement Agreement to the U.S. Department of Education, Office for Civil Rights (OCR) to resolve complaint number 05-13-1342 and to ensure that the Corporation is in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 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 with respect to the allegation raised in the complaint. In signing this Agreement, the Corporation does not admit any wrongdoing or violation of any law, statute, regulation or policy, and is entering into this Agreement solely for purposes of amicably resolving this Complaint."

The Corporation agrees to the following:

1. By March 3, 2014, the Corporation will review the actions of all employees involved in the decision to terminate the Complainant and determine, consistent with its applicable employment policies, whether to take disciplinary action against them for retaliation against the Complainant.

REPORTING REQUIREMENT: By May 1, 2014, the Corporation will submit to OCR documentation demonstrating compliance with Item #1.

2. By April 1, 2014, the Corporation will review and revise its Policies, Procedures and Administrative Guidelines as necessary to: 1) make clear to Corporation employees how to report alleged harassment of students; 2) make clear to Corporation students, faculty and staff that the Corporation will not retaliate against any person who makes a report or files a complaint alleging harassment or other discrimination on the basis of disability; 3) advise students, faculty and staff of their right to file a complaint with the Corporation if they believe they have been subjected to retaliation for reporting a possible violation; 4) advise students, faculty and staff that reports of retaliation will be promptly and impartially investigated; and 5) ensure that the Corporation will advise the parties in writing of the outcome of the investigation, including remedies taken against anyone who retaliates against or intimidates another.

REPORTING REQUIREMENT: By May 1, 2014, the Corporation will submit its Policies, Procedures, and Guidelines referenced in Item #2 to OCR for its review and approval.

3. Within 60 days of OCR's approval of the revised Policies, Procedures, and Guidelines the Corporation will notify students, employees, and other interested persons of the revised Policies, Procedures, and Guidelines, including posting them in a prominent place on the Corporation's website and at all Corporation buildings.

REPORTING REQUIREMENT: Within 30 days of the required implementation date of Item #3, the Corporation will document to OCR that it has posted the Policies, Procedures, and Guidelines as specified in this Item.

4. By September 1, 2014, the Corporation will provide training to all administrators in the Corporation on the revised Policies, Procedures, and Guidelines referenced in Items #2 and #3 and on the prohibitions against retaliation as referenced in Federal regulations. The training will specifically explain to the participants that the Corporation prohibits acts of retaliation for activities that are protected under Section 504 and Title II and will describe the disciplinary measures that may be taken by the Corporation against persons who commit acts of retaliation.

REPORTING REQUIREMENT: By September 15, 2014, the Corporation will provide OCR with documentation that it has provided the training referenced in this Item, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the administrators who attended the training.

5. By September 1, 2014, the Corporation will provide training to all middle school employees on their right to be free from retaliation under the revised Policies, Procedures, and Guidelines referenced in Items #2 and #3. The training will specifically explain to the participants that the Corporation prohibits acts of retaliation for activities that are protected under Section 504 and Title II and will describe how to file complaints of retaliation or of harassment of students.

REPORTING REQUIREMENT: By September 15, 2014, the Corporation will provide OCR with documentation that it has provided the training referenced in this Item, including the dates of the training, the names and titles of the trainer(s), a copy of materials used or distributed during the training, and a sign-in sheet with the names and titles of the administrators who attended the training.

6. The Corporation will take the following actions with respect to the Complainant:
 - a. By March 3, 2014, reimburse the Complainant for any compensation she would have received from the Corporation as if she had completed her tenure as a full time Teaching Assistant (aide) through the end of the 2012-13 school year.
 - b. By March 3, 2014, remove any reference to the Complainant's termination or resignation from her position as a Teaching Assistant from her employment file.
 - c. Between the date of this Agreement and the beginning of the 2014-2015 school year, notify the Complainant in writing of any Teaching Assistant, cafeteria position or other similar employment opportunities that are open at any Corporation school, invite the Complainant to apply for the opening, and consider the Complainant's application on par with other applicants with her years of experience at the Corporation and without reference to the Complainant's termination or XXXXXXXXXXXX.

REPORTING REQUIREMENT: By May 1, 2014, the Corporation will submit to OCR documentation demonstrating compliance with Items #6(a) and #6(b). By September 15, 2014, in order to document that it has met the terms of Item #6(c), the Corporation will provide a list of all teaching assistant and cafeteria positions that were open at any time between the date of the agreement and the start of the 2014-2015 school year,

documentation that it invited the Complainant to apply for each, an indication of whether the Complainant applied for any openings, and, if the Complainant applied but was not selected for any opening(s), the reason(s) why the Complainant was not selected with supporting documentation.

The Corporation understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Corporation understands that during the monitoring of this agreement, if necessary, OCR may visit the Corporation, interview employees and students, and request such additional reports or data as are necessary for OCR to determine whether the Corporation has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §104.61 and Title II at 28 C.F.R. § 35.134 which were at issue in this case.

The Corporation understands that OCR will not close the monitoring of this agreement until OCR determines that the Corporation has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §104.61 and Title II at 28 C.F.R. § 35.134 which were at issue in this case.

The Corporation 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 or judicial proceedings to enforce the specific terms and obligations of this Agreement, OCR shall give the Corporation written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of the Sunman-Dearborn Community Corporation:

Superintendent or Designee

Date