

Agreement to Resolve
Concept Charter School
OCR Complaint # 05-14-1329

The Concept Charter Schools (District) enters into this Resolution Agreement (Agreement) to ensure 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 allegations of discrimination raised in the above-referenced complaint. The District agrees to take corrective action to resolve the Section 504 and Title II violations established by this investigation.

Review Of Policies, Practices, And Procedures

1. *Anti-Discrimination Statement.* The District will issue a statement to all students, parents and staff that will be published on the District's and the XXXXXXXXXXXXXXXXXXXXXXXX (School)¹ websites and posted in prominent locations at the School, stating that the District and School do not tolerate acts of discrimination or harassment, including discrimination or harassment based on disability. The statement will encourage any student who believes that he or she has been subjected to discrimination or harassment based on disability to report to the District or School the discrimination or harassment, and note the District and School's commitment to conducting a prompt investigation. The statement will include the appropriate contact information for the designated District and School staff members to whom students and parents may report allegations of harassment and/or discrimination, as well as the name of an alternate staff member if the complaint is to be filed against the contact person. The statement will warn that students or staff found to have engaged in acts of discrimination or harassment based on disability will be promptly disciplined and make clear that such discipline may include for students, if circumstances warrant, suspension or expulsion, and for employees, termination. The statement will encourage students, parents and District and School staff to work together to prevent acts of harassment of any kind.

REPORTING REQUIREMENT: By March 31, 2015, the District will provide OCR with documentation demonstrating implementation of item #1, including a copy of the statement required by item #1, the URL for the statement's inclusion on the District and School's websites, and a description of all places in which the statement is posted.

2. *Consultant.* The District agrees to retain an independent third-party consultant, subject to OCR approval, with whom the District agrees to collaborate in a review of

¹ Unless otherwise indicated, hereafter wherever this Agreement uses the term "District" it shall be construed to include the School. To the extent that the School develops policies or procedures that are different from the District's, the District shall provide to OCR for review and approval the School's proposed policies and procedures in addition to the District's.

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the District's Section 504 and Title II policies, practices, and procedures (hereafter Section 504 Policies). The District will provide the consultant with all appropriate information the consultant believes to be necessary to evaluate the District's Section 504 Policies, including but not limited to its written policies, practices, and procedures related to the District's compliance with the Section 504 regulation at 34 C.F.R. §§ 104.4(a), 104.33, 104.35, and 104.36. In addition, the District agrees to collaborate with the consultant in a review of its policies, practices, and procedures for filing complaints of discrimination based on disability (hereafter Grievance Procedures).

REPORTING REQUIREMENT: By March 31, 2015, the District will provide OCR with documentation demonstrating the implementation of item #2, including the name and credentials of the consultant and the proposed contract between the District and consultant.

3. *Revised Policies and Procedures.* In collaboration with the Consultant, the District will review and revise, as necessary, its Section 504 Policies and Grievance Procedures. At a minimum, the District's revised Section 504 Policies and revised Grievance Procedures will provide the following:

Section 504 Policies

- a) The name and contact information for the District and the School's Section 504 coordinator(s);
- b) a statement setting forth the District's commitment to providing a free appropriate public education (FAPE) to all qualified individuals enrolled in the District consistent with the requirements of 34 C.F.R. § 104.33;
- c) a statement setting forth the District's commitment to prohibiting discrimination based on disability in all of its programs, services, and activities, including but not limited to, enrollment decisions;
- d) a notice of nondiscrimination in all District and School application and recruiting materials that complies with the regulations implementing Section 504 and Title II at 34 C.F.R. § 104.8 and 28 C.F.R. § 35.106, respectively;
- e) an explanation of the procedures under which staff, parent(s), and guardian(s) may make an initial request for an evaluation, including a narrative description of all steps necessary to make the request, identification of the person(s) at the District or School to whom a request may be made, the information that must be provided in making a request, and a description of any assistance the District or School provides to parent(s) and guardian(s) in making such requests;
- f) an explanation of the procedures governing the District's response to staff, parent(s) and guardian(s) requests for evaluation, including a narrative description of the steps the District takes to record and process such requests, the timeframe in which the District will respond to the request, and the notice provided to parent(s) and guardian(s) about the District's response to a request for an evaluation; and
- g) notice of the District's procedural safeguards.

Grievance Procedures

- h) a description of the District's, and if different the School's, formal and informal complaint procedures, including a Complaint Form, timeframes for the District's investigation of a complaint, and a requirement that written notice of the outcome be provided to the parties for both formal and informal complaints;
- i) specific information as to the name or title and contact information (including office address, e-mail address, and telephone number) for the District or School employee(s) responsible for receiving the Complaint Form and/or investigating reports of disability discrimination; and
- j) a statement prohibiting retaliation against persons who request evaluations for special education and related services, report disability discrimination, or participate in related proceedings.

REPORTING REQUIREMENT: By May 15, 2015, the District will submit to OCR for review and approval its revised Section 504 Policies and Grievance Procedures referenced in item #3.

4. *Adoption and Publication.* Within 15 days after OCR's approval of the proposed changes to the District's Section 504 Policies and Grievance Procedures referenced in item #3, the District will publish and widely disseminate them. The District will publish the revised Section 504 Policies and Grievance Procedures on the District's website, on the School's website, and in the School's Student Handbook.

REPORTING REQUIREMENT: By June 30, 2015, the District will provide to OCR for review documentation that it has approved the revised Section 504 Policies and Grievance Procedures and disseminated them to all School students, parents and staff and posted them in a prominent location on the District's website, the School's website, and, physically, at the School, including the URL for the website and a description of all places in which they have been posted.

5. *Training:* The District will retain the Consultant, or another impartial third party subject to OCR approval, to provide annual training to all School teachers, administrators, and school aides, the District Director of Specialized Services, the Superintendent to the District's West Region, and any other District personnel charged with supervising School students, on the Section 504 regulation at 34 C.F.R. §§ 104.4(a), 104.33, 104.35, 104.36, which prohibit disability discrimination, require the District to provide a FAPE, govern the evaluation and placement procedures, and require notice of the District's procedural safeguards, and also the District's revised Section 504 Policies and Grievance Procedures referenced in item #3. In addition, the District shall evaluate its staff's understanding of the training information and materials with a formal assessment.

REPORTING REQUIREMENTS: By August 15, 2015, and annually thereafter until OCR concludes its monitoring of the District's compliance with the Agreement, the

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District will provide to OCR documentation describing the trainings it has provided to School teachers, administrators, aides, and other District personnel, including sign-in sheets, agendas, all materials distributed, a copy of the assessment instrument, and a narrative summary of the results of the evaluation.

6. *Individual Relief - FAPE.* After providing proper written notice to Student A's XXXXXXXXXXXXX, the District will retain a private evaluation service, subject to OCR approval, to convene a group of knowledgeable persons to determine whether Student A was denied a FAPE during the 2013-14 school year as the result of any failure to evaluate him for special education and related services until April 11, 2014, to provide procedural safeguards to his XXXXXXXXXXXXX until April 11, 2014, to follow the placement procedures at 34 C.F.R. § 104.35 when changing Student A's placement on or about February 7, 2014, and to provide XXXXXXXXXXXXX between, approximately, February 7, 2014 and April 11, 2014. If the group determines that Student A was denied a FAPE during the 2013-14 school year, it shall determine whether Student A is in need of compensatory and/or remedial services as a result of the District's denial of FAPE. Within one week of the group's determination, the District will send, via certified mail, a letter to Student A's XXXXXXXXXXXXX, offering to directly pay a private provider, subject to OCR approval, for any compensatory and/or remedial services recommended by the group for Student A within the next 365 days. In addition, the District will provide Student A's XXXXXXXXXXXXX with notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

REPORTING REQUIREMENT: By August 15, 2015, the District will report the results of the group's determination regarding the provision of any compensatory and/or remedial services for Student A. The District shall provide OCR with a copy of the notice provided to Student A's XXXXXXXXXXXXX, documentation showing the participants in the meeting, a narrative statement providing an explanation for the group's decisions, a description of the information that the group considered, a description of and, if applicable, a schedule for providing any compensatory and/or remedial services to Student A, and documentation that the District provided the procedural safeguards to Student A's XXXXXXXXXXXXX. Prior to approving the proposed services, OCR will review the documentation to ensure that the group met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making its determination.

7. *Individual Relief – Enrollment.* On or before March 15, 2015, and by certified mail, the District will offer Student A the opportunity to enroll in the School for the 2015-16 school year. The offer for enrollment shall contain an assurance that, if accepted, the District will provide Student A with a FAPE and comply with all of the regulations implementing Section 504 and Title II. In addition, the offer will outline the time by which Student A's XXXXXXXXXXXXX must respond to the offer and the steps necessary to enroll Student A for the 2015-16 school year. The District will enroll Student A in the School for the 2015-16 school year if Student A's

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XXXXXXXXXXXXXXXXX provides a completed enrollment application on or before May 15, 2015.

REPORTING REQUIREMENT: By May 15, 2015, the District shall provide documentation confirming that it sent Student A's XXXXXXXXXXXXXXXXXXXX the offer for enrollment as well as documentation to demonstrate whether Student A's XXXXXXXXXXXXXXXXXXXX accepted the offer, including enrollment materials, a signed statement by Student A's XXXXXXXXXXXXXXXXXXXX that Student A will not accept the offer for enrollment at the School for the 2015-16 school year, any correspondence between Student A's XXXXXXXXXXXXXXXXXXXX and the School, and, if applicable, any enrollment materials submitted by Student A's XXXXXXXXXXXXXXXXXXXX.

The District 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 District understands that during the monitoring of this agreement, if necessary, 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), 104.33, 104.35, and 104.36 and Title II at 28 C.F.R. § 35.130(a), 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 regulations implementing Section 504 at 34 C.F.R. §§ 104.4(a), 104.33, 104.35, and 104.36 and Title II at 28 C.F.R. § 35.130(a), which were at issue in this case.

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.

For the District

Date