

RESOLUTION AGREEMENT
OCR Case No. 05-16-1287
Gary Community School Corporation

Gary Community School Corporation (Corporation) enters into this Resolution Agreement (Agreement) with the U.S. Department of Education, Office of Civil Rights (OCR) to ensure its 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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation at 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability by public entities. To ensure compliance with above-referenced statutes and their implementing regulations with respect to the issues raised in this complaint, the Corporation voluntarily agrees to take the following actions.

Anti-Discrimination/Anti-Retaliation Statement

1. By November 15, 2016, the Corporation will develop and provide for OCR's review and approval a statement to all Corporation students, parents and staff that the Corporation does not tolerate any acts of disability discrimination, including harassment based disability. The statement will encourage any student who believes he or she has been subjected to discrimination, including harassment based on disability, to report the discrimination to the Corporation and note the Corporation's commitment to conducting a prompt investigation. The statement will include the procedures under which students may file a complaint of discrimination or harassment, and 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, if circumstances warrant, suspension and/or expulsion of a student and suspension or termination of an employee. The statement will warn that students or employees who retaliate against individuals who report disability discrimination or harassment will be promptly disciplined. The statement will encourage students, parents and Corporation staff to work together to prevent acts of discrimination or retaliation. Within 15 days of OCR's approval of the statement, the Corporation will widely publish the statement, including by posting it on the Corporation's website, publishing it in the student handbook, and posting it in all Corporation buildings and by any other means of notification the Corporation deems effective to ensure that the information is widely disseminated.

REPORTING REQUIREMENTS: By November 15, 2016, the Corporation will submit to OCR for its review and approval the statement it proposed to publish. Within 30 days of OCR's approval of the statement, the Corporation will provide OCR with documentation that the statement referenced in this item has been widely published, including copies of emails, relevant pages of the Corporation's website, copies of the student handbook, and documentation of the postings in the buildings.

Notice of Nondiscrimination

2. By November 15, 2016, the Corporation will submit to OCR for its review and approval a revised Notice of Nondiscrimination that reflects that it applies to employees and applicants as well as to students and parents/guardians in the Corporation. The Corporation will include the Section 504 Coordinator's name and contact information in the revised Notice of Nondiscrimination (Notice) and will make this Notice available through its website, its Student Code Handbook, its Affirmative Action Policy, as well as by any other means of notification the Corporation deems necessary to ensure that the information is widely disseminated.

REPORTING REQUIREMENTS: By November 15, 2016, the Corporation will submit to OCR for its review and approval its revised Notice of Nondiscrimination referenced in this Item. Within 30 days of OCR's approval, the Corporation will widely publish the Notice of Nondiscrimination by posting it on the Corporation's website and in other materials that the Corporation deems appropriate. The Corporation will submit documentation that it published the Notice of Nondiscrimination referenced in this Item within 30 days of publication.

Policies and Procedures

3. By December 1, 2016, the Corporation will conduct a comprehensive review of, and will revise as necessary, all policies and procedures relating to disability discrimination, including harassment, and retaliation to ensure that the grievance procedures incorporate appropriate due process standards and provide for the prompt and equitable resolution of reports or complaints alleging any form of disability discrimination. The review shall include, but is not limited to the policies and codes contained in the Student Code of Conduct Handbook and the Affirmative Action Policy (collectively referred to as Policies hereafter). Any revisions should ensure that the Corporation adequately address and provide sufficient options for responding promptly and appropriately to incidents of disability discrimination, including harassment, and retaliation and are uniformly implemented in every school in the Corporation. At a minimum, the revised Policies will provide the following:
 - a. A statement setting forth the Corporation's commitment to having a school environment free from all discrimination on the basis of disability and retaliation. Such statement must explain that the Corporation prohibits disability harassment in the school environment, including all academic, extra-curricular and school-sponsored activities. The statement will encourage students to report immediately incidents of harassment. The statement will emphasize that staff are required to report promptly incidents of harassment that they witness or that are brought to their attention to the designated school administrators. The statement will specify that school administrators and/or the Corporation will investigate formal and informal complaints of harassment and will document such investigations.
 - b. Examples of the type of conduct and behavior that is covered by the Policies, 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 statement that the Corporation will take appropriate disciplinary action against students and staff who violate the Corporation policies and procedures addressing discrimination, harassment and retaliation, and examples of the range of possible disciplinary sanctions.
- e. An clear explanation of how to report discrimination, harassment, and retaliation and/or file a complaint (formally or informally) including the name, address, phone number, and email address for the Corporation's 504 Coordinator.
- f. A description of the Corporation's formal complaint procedures, including a Complaint Form, designated and reasonably prompt timeframes for the Corporation's investigation of a complaint, a process for extending the timeframes, and a requirement that written notice of the outcome be provided to all parties.
- g. Notice that the Corporation will keep the complaint and investigation confidential to the extent possible.
- h. Specific information as to the name or title and contact information (including office and email address and telephone number) for the Corporation employee(s) responsible for receiving the Complaint Form and/or investigating reports of discrimination or retaliation.
- i. A requirement that the designated school administrator(s) and Corporation employee(s) document all written and verbal reports of incidents of harassment and that the Corporation establish a uniform protocol for recordkeeping to be used by all the schools in the Corporation.
- j. A recommendation that Corporation staff who observe acts of harassment based on disability intervene to stop the harassment, unless circumstances would make such intervention dangerous.
- k. Prohibition of retaliation against persons who report harassment or discrimination or participate in related proceedings, and a statement that the Corporation will discipline individuals who engage in retaliation.
- l. A statement that the Corporation will provide counseling services to any person found to have been subjected to harassment on the basis of disability, or to any student with a disability found to have been subjected to harassment or bullying on any basis and whom the Corporation determined was denied a FAPE.

- m. Identification of the means the Corporation will use to investigate incidents of discrimination, harassment, and retaliation, including but not limited to the following:
 - i. the various steps the Corporation will take to conduct adequate, reliable and impartial investigations of reported incidents, including an explanation that to the extent the parties are given an opportunity to present evidence, they will be provided an equal opportunity to do so;
 - ii. an explanation of the interim measures that can be taken by the Corporation before the final outcome of the investigation;
 - iii. an assurance that the Corporation uses in its investigation of reports or complaints a preponderance of the evidence standard of review (*i.e.*, it is more likely than not that discrimination, harassment or retaliation occurred);
 - iv. an assurance that the Corporation will take action to stop the harassment, remedy the harassment, and prevent recurrence; and
 - v. the Corporation’s standards for determining whether a hostile environment exists.

REPORTING REQUIREMENTS: By December, 15, 2016, the Corporation will submit its revised Policies complying with Item 3 to OCR for review and approval.

- 4. By December 1, 2016, the Corporation will review and revise, as necessary, its student code of conduct to determine whether it contains rules of behavior, offense categories, and disciplinary procedures to appropriately address violations of the Corporation’s Policies, as developed pursuant to Item 3. The Corporation will revise the student code of conduct to the extent necessary to ensure it contains such rules of behavior, offense categories, and disciplinary procedures.

REPORTING REQUIREMENTS: By December 15, 2016, the Corporation will submit the student code of conduct complying with Item 4 to OCR for review and approval.

- 5. Within 30 days of receipt of notice of OCR’s final approval of the Policies and code of conduct described in Items 3 and 4, the Corporation will adopt, implement and publish the Policies and code of conduct. Publication will include written notice of the Corporation’s Policies and code of conduct, including its formal and informal complaint procedures, to the school community, including students, parents, and Corporation administrators and staff. The Corporation will make this notification through its website as well as by any other means of notification the Corporation deems effective to ensure that the information is widely disseminated. As necessary, the Corporation will also update its parent, student, and employee handbooks, as well as its website.

REPORTING REQUIREMENTS: By January 31, 2017, the Corporation will provide OCR with a report demonstrating implementation of Item 5. In particular, the Corporation will provide copies of publications showing the revised documents, copies of any handbooks, and the location on the Corporation's and schools' website where the Policies may be found.

Staff and Student Training

6. By January 31, 2017, and by September 30 of each subsequent school year, the Corporation will provide effective training to all school teachers, administrators, school aides, and any other Corporation personnel charged with supervising students on the Policies and code of conduct referenced in Items 3 and 4 of this Agreement. The training will specifically remind all personnel of its commitment to having a Corporation environment free from disability harassment and all other forms of disability discrimination, explain the responsibility of staff to report incidents of possible harassment based on disability, and the procedures for doing so, the consequences for not doing so, and provide instruction on how to recognize, prevent and respond appropriately to such harassment, including the need to discipline students, consistent with the Corporation's student code of conduct, found to have engaged in prohibited harassment, and explain the Corporation's policy prohibiting retaliation and intimidation. The Corporation will also provide the training contained in this Item to new staff within 90 days of hiring.

REPORTING REQUIREMENTS: By December 31, 2016, the Corporation will submit training materials to OCR for its review and approval to ensure that they cover the contents outlined above. By February 15, 2017 and by October 15, 2017, the Corporation will provide OCR with a report demonstrating implementation of Item 6. In particular, the Corporation will provide 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.

7. By January 31, 2017, and by September 30, 2017, and annually thereafter, the Corporation will provide effective training to all School staff who are directly involved in processing, investigating and/or resolving complaints or other reports of disability discrimination, including harassment complaints and any other Corporation personnel who are likely to receive confidential reports of disability harassment. The training will review the Corporation Policies and code of conduct referenced in Items 3 and 4 of this Agreement and include instruction on how to conduct and document adequate, reliable, and impartial disability discrimination or harassment investigations, including the appropriate legal standards to apply in such investigations, and Section 504 prohibitions on retaliation.

REPORTING REQUIREMENTS: By February 15, 2017 and by October 30, 2017, the Corporation will provide OCR with a report demonstrating implementation of Item 7. In particular, the Corporation will provide 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 February 15, 2017 and by September 30, 2017, and for at least two years, the Corporation will provide an age appropriate orientation program for all School students, which will address discrimination, including 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 Corporation. The Corporation will 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 Corporation's Policies and code of conduct, including an explanation of what harassment on the basis of disability is, as well as disciplinary sanctions related to findings of violations of its Policies and code of conduct including the policies prohibiting retaliation and intimidation. The Corporation will also provide students with the name and contact information of the 504 Coordinator and a Corporation employee, such as a counselor, that the students may contact if they wish to confidentially discuss any concerns they have, remind students of the availability of counseling services, and encourage students to report harassment they have experienced or observed. The Corporation will distribute written materials during the program that contain the information discussed.

REPORTING REQUIREMENTS: By February 28, 2017 and by October 15 for at least two years, the Corporation will provide OCR with a report demonstrating implementation of Item 8. The Corporation 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.

Harassment Hot Spots

9. At least once during second semester of the 2016-2017, and once during each semester in the 2017-2018, and 2018-2019 school years, the Corporation will identify any "hot spots" where harassment is likely to occur, including outdoor locations where students congregate (e.g., hallways, lunch rooms) and on school buses. The Corporation shall seek and consider student input in identifying hot spots. Based on a review of the data gathered by the working group and the information identified regarding hot spots, the Corporation will take appropriate corrective actions to prevent and address harassment in the identified hot spots. The corrective actions may include, but are not limited to, training students to assist in monitoring hot spots, assigning staff to monitor hot spots, and/or adding additional cameras in certain school locations or on buses and monitoring those cameras. The Corporation shall ensure that any person designated to monitor a harassment hot spot has attended trainings on the Corporation's anti-harassment policies and procedures. The Corporation will ensure that those employees who begin employment after such annual training has occurred will work with the 504 Coordinator to ensure each new employee designated to monitor a harassment hot spots receives training on the Corporation's Policies.

REPORTING REQUIREMENT: By July 15, 2017, November 15, 2017, July 15, 2018, November 15, 2018, and July 15, 2019, the Corporation will provide to OCR documentation regarding its implementation of this Item, including the location of the identified hot spots and a description of all steps that the Corporation has taken or will take to prevent harassment from occurring in these locations.

Climate Survey and Assessments

10. By May 1, 2017, and by the same date annually thereafter, the Corporation, under the oversight of the 504 Coordinator, will conduct a climate check or series of climate checks with students to assess the effectiveness of steps taken pursuant to this Agreement, or otherwise by the Corporation, to achieve its goal of schools free of disability harassment and other forms of discrimination. The climate check will be completed in part by sending a survey to each Corporation middle school and high school student and the parent of each Corporation elementary school student. The climate check will contain questions about the student's and parent's awareness of incidents of disability discrimination and any experiences with disability discrimination while attending the Corporation, identifying any particular programs, activities, or geographical locations where the discrimination occurred, and the student's and parent's awareness of the Corporation's Policies. The ongoing climate checks will also include ensuring students and parents know to whom they can report concerns about disability discrimination, such as the 504 Coordinator. The Corporation will use the information gathered through the climate checks to determine if additional action and/or 504 training for faculty, staff, and/or students is required to maintain an environment in each Corporation program, activity, school, and department free from disability discrimination, including disability harassment, and retaliation.

REPORTING REQUIREMENT: By March 1, 2017, the Corporation will submit to OCR for approval the proposed climate check tools, including the climate survey and the protocol for administering the surveys and analyzing the results. Information gathered through the climate survey will be used to inform future proactive steps taken by the Corporation to provide an environment that is safe and supportive to all students and in compliance with Section 504. By July 15, 2017, July 15, 2018, and July 15, 2019, the Corporation will provide OCR the results of the climate check and access to the underlying data, and provide for OCR's review and approval a description of all actions the Corporation plans to take as a result and verification that it has implemented the actions approved by OCR. The Corporation will submit proposed future revisions to its climate survey tool(s) for OCR review and approval during the monitoring of the Agreement.

Homebound Policy

11. By December 1, 2016, the Corporation will review and revise as necessary Policy 342 Homebound or Hospitalized Instruction to ensure that the source of the medical documentation required is reasonable and necessary. The Corporation's evaluation and placement decisions with regard to homebound services for any student who, because of

a disability, needs or is believed to need such services should be made in accordance with the requirements the regulations implementing Section 504, at 34 C.F.R. §§ 104.33 – 104.36.

REPORTING REQUIREMENTS: By December 15, 2016, the Corporation will submit to OCR for its review and approval its revised Policy 342 referenced in this Item. Within 30 days of OCR’s approval, the Corporation will adopt and publish the revised policy by posting it on the Corporation’s website and in other materials that the Corporation deems appropriate. The Corporation will submit documentation that it published the revised policy referenced in this Item within 30 days of publication.

Individual Remedies

12. By December 1, 2017, the Corporation will retain, subject to OCR’s review and approval, an independent qualified investigator with expertise in how to conduct investigations in compliance with 504, to review the reports or complaints of discrimination and retaliation raised by the Complainant or Student A since the beginning of the 2015-2016 school year either with the Corporation or with OCR. The Corporation will initiate its investigative process, as revised under this Agreement, including providing a written determination of its findings to the Complainant indicating whether discrimination, harassment and or retaliation occurred and whether a hostile environment was created, and determining whether and which remedies are appropriate for the Complainant and Student A to ameliorate the effects of the discrimination and/or retaliation, including compensatory education or services, changing of disciplinary records, offers of counseling, modification of Student A’s grades, sending a letter of explanation to the local police, and the disciplining of students or staff, and, as applicable, providing notice of appeal rights. The investigator will prepare a report for the Corporation that summarizes the facts and recommends steps for the Corporation to take to address any problems identified by the investigator (or by OCR). The Corporation will ensure that the 504 Coordinator is advised of the outcome of the investigator’s findings.

REPORTING REQUIREMENT: By November 15, 2016, the Corporation will provide OCR the name and credentials of the investigator. By February 15, 2017, the Corporation will provide a copy of the investigator’s report and, for OCR’s review and approval, the steps the Corporation proposes to take in response. In particular, the Corporation will provide all documents related to its investigation, including notes of all interviews, and will provide documentation describing the proposed actions to be taken by the Corporation, as well as the justification for each decision not to take action in connection with any incidents of alleged discrimination, harassment and/or retaliation. By March 15, 2017, the Corporation will provide documentation to OCR that it has implemented all steps approved by OCR including appropriate action to address any problem identified by the investigator or OCR.

Data Maintenance

13. On an annual basis, the Corporation will maintain the following data:

- a. all written reports and a written narrative describing all oral reports of incidents involving allegations of discrimination based on disability, including harassment, and allegations of retaliation;
- b. a narrative of all actions taken in response to the reports, including any written documentation;
- c. a copy of all disciplinary sanctions issued to students or staff for violations of the Policies described in Items 3 and 4;
- d. documentation demonstrating any remedial efforts offered and provided to the victim of the harassing incidents, such as counseling, tutoring or other appropriate services; and,
- e. a narrative of all action taken to prevent recurrence of the harassing incidents, including any written documentation.

REPORTING REQUIREMENT: By July 30, 2017, and by July 30, 2018, the Corporation will provide the data referenced in Item 13 to OCR.

The Corporation understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the Corporation understands that, during the monitoring of this Agreement, OCR may visit the Corporation, interview staff 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. § 104.4, and Title II at 28 C.F.R. § 35.135, 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. § 104.4, and Title II at 28 C.F.R. § 35.135, 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 (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Corporation written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of Gary School Corporation.

Name and Title

Date