

Resolution Agreement OCR #05-23-1307
Community Consolidated School District 89

XXXXXXXXX (District) submits the following agreement (Agreement) to the U.S. Department of Education, Office for 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, 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, with respect to the issues raised in OCR complaint #05-23-1307.

The District agrees to the following:

1. By September 20, 2023, the District will, after providing appropriate notice and procedural safeguards to Student A's parent, convene an Individualized Education Program (IEP) meeting of persons knowledgeable about Student A and her XXXXXXXXX, including the District Nurse, building nurse (Nurse), Student A's parent, and providing the parent consents, Student A's treating physician, to discuss any updated medical information and to review, discuss, and clarify, as necessary, Student A's XXXXXXXXX. Specifically, they will consider: (a) the circumstances, if any, under which Student A requires an XXXXXXXXX to the Nurse's office; (b) when and how the Nurse will supervise Student A's XXXXXXXXX, including any instructions for XXXXXXXXX based on XXXXXXXXX or physical activity and steps to follow, if any, when Student A XXXXXXXXX previously unreported XXXXXXXXX; (c) the circumstances under which the Nurse is required or allowed to manually check Student A's XXXXXXXXX; (d) the circumstances, if any, under which, the Nurse is required or allowed to do manual calculations for XXXXXXXXX; (e) the XXXXXXXXX; what that means and when, if ever, a XXXXXXXXX is permissible, including, if applicable, the steps to follow in administering a XXXXXXXXX; (f) when and how the Nurse will supervise the changing of Student A's XXXXXXXXX; and (g) the circumstances under which the Nurse is required to communicate with Student A's parent and/or treating physician and how those communications will be made.

REPORTING REQUIREMENT: By September 25, 2023, the District will provide to OCR documentation demonstrating its implementation of Item 1 of the Agreement, including a copy of the meeting notes and XXXXXXXXX.

2. By September 25, 2023, the District will, after providing appropriate notice and procedural safeguards to Student A's parent, convene an IEP team meeting with a group of persons knowledgeable about Student A, including the Nurse and Student A's parent. The team will review and revise, as necessary, Student A's IEP to ensure that she receives a free and appropriate public education (FAPE), and, at a minimum, will:
 - a. Review Student A's current XXXXXXXXX and determine whether Student A is in need of additional or different services, academic adjustments, or modifications to support her current XXXXXXXXX, or to address Student A's reluctance to go to the Nurse's office for XXXXXXXXX.

- b. Develop a plan for providing Student A with XXXXXXXXX (*i.e.*, assistance or supervision in XXXXXXXXX monitoring and XXXXXXXXX administration) after school so that she has an equal opportunity to participate in extracurricular activities.
- c. Determine whether Student A is in need of compensatory services, including XXXXXXXXX, for any educational XXXXXXXXX that resulted from a failure to provide Student A with a FAPE. If the team determines compensatory services are necessary, the team will develop a plan for providing those services with a completion date not to extend beyond May 1, 2024. The plan will identify the type, frequency, location, and duration of services to be provided, at no cost to Student A's parent, as well as the credentials of the individual(s) providing the service(s). If the team determines compensatory services are not necessary, the team will provide the rationale for the determination and the information relied upon to support the determination.

REPORTING REQUIREMENT: By October 25, 2023, the District will provide to OCR documentation demonstrating its implementation of Item 2 of the Agreement. Specifically, the District will provide OCR a copy of the notice of meeting and procedural safeguards provided to Student A's parent, the IEP team meeting notes, a copy of the plan developed in Item 1(b), and an explanation of how the team reached its determination regarding Item 2(c). If applicable, the District will also provide to OCR a copy of the plan for providing the compensatory services in Items 2(c). By May 31, 2024, the District will provide documentation to OCR that it has provided all services that it determined are necessary.

3. By October 25, 2023, the District will review, and revise, if necessary, its Section 504 policies and procedures to ensure that the District complies with the Section 504 regulation at 34 C.F.R. § 104.37, which requires school districts to provide students with disabilities an equal opportunity to participate in nonacademic and extracurricular services and activities.

REPORTING REQUIREMENT: By October 25, 2023, the District will submit to OCR the revised policies and procedures developed in accordance with Item 3 for review and approval. Within 30 calendar days of written notification of OCR's approval of the revised policies and procedures, the District will publish the revised policies and procedures on the District's website.

4. By March 15, 2023, a qualified individual will provide training to the District's administrators, principals, assistant principals, case managers, counselors, social workers, nurses, and any other personnel with responsibilities under Section 504 and Title II. The training will address: the District's responsibility to provide a FAPE to students with disabilities; the District's responsibility to implement IEP and Section 504 plans, including XXXXXXXXX; the District's responsibility to reconvene a Section 504 or IEP team and reevaluate a student's placement or services, including examples of the circumstances when it is warranted to reconvene the team; and the District's obligation to provide students with disabilities an equal opportunity to participate in nonacademic

and extracurricular services and activities, including the obligation to make reasonable modifications and/or provide aids and services if the failure to do so would deny students with disabilities an equal opportunity for participation in extracurricular activities. The training will incorporate information specific to diabetes and treatment generally as well as the importance of implementing XXXXXXXX.

REPORTING REQUIREMENT: By April 1, 2024, the District will provide OCR with documentation that it has provided the training required by Item 4 to the personnel listed above, including the dates of the training, names(s), title(s) and qualifications of the individuals(s) who provided the training; a copy of the training materials used during the training; and a list of the of attendees by name and title.

5. By April 15, 2024, the District will have a qualified individual provide training to the District’s certified teachers with responsibilities under Section 504 and Title II. The training will address: the District’s responsibility to provide a FAPE to students with disabilities; the District’s responsibility to implement IEP and Section 504 plans, including XXXXXXXX; and the District’s obligation to provide students with disabilities an equal opportunity to participate in nonacademic and extracurricular services and activities, including the obligation to make reasonable modifications and/or provide aids and services if the failure to do so would deny students with disabilities an equal opportunity for participation in extracurricular activities. The training will incorporate information specific to diabetes and treatment generally as well as the importance of implementing XXXXXXXX.

REPORTING REQUIREMENT: By April 22, 2024, the District will provide OCR with documentation that it has provided the training required by Item 4 to the personnel listed above, including the dates of the training, names(s), title(s) and qualifications of the individuals(s) who provided the training; a copy of the training materials used during the training; and a list of the of attendees by name and title.

6. By May 15, 2024, the District will assess the effectiveness of the training referenced in Item 4 by conducting surveys of personnel who attended the training. The surveys will specifically inquire about the individual’s knowledge of the responsibility to fully implement IEP and Section 504 plans, including XXXXXXXX; the responsibility to reconvene an IEP or Section 504 team to reevaluate a student’s placement or services; and the obligation to provide reasonable modifications and aids and services to students with disabilities to ensure an equal opportunity for participation in nonacademic and extracurricular activities.

REPORTING REQUIREMENT: By May 31, 2024, the District will provide OCR with documentation of the assessment required by Item 5. If additional training is determined to be necessary, the District will provide OCR documentation demonstrating it provided the additional training by October 1, 2024.

7. By May 15, 2024, the District will assess the effectiveness of the training referenced in Item 5 by conducting surveys of personnel who attended the training. The surveys will specifically inquire about the individual’s knowledge of the responsibility to fully

implement IEP and Section 504 plans, including XXXXXXXX and the obligation to provide reasonable modifications and aids and services to students with disabilities to ensure an equal opportunity for participation in nonacademic and extracurricular activities.

REPORTING REQUIREMENT: By May 31, 2024, the District will provide OCR with documentation of the assessment required by Item 5. If additional training is determined to be necessary, the District will provide OCR documentation demonstrating it provided the additional training by October 1, 2024.

This Agreement is entered into for the sole purpose of voluntarily resolving this complaint. This Agreement does not constitute, nor shall it be deemed, an admission by the District of any discriminatory actions or other wrongdoing or liability with respect to the Complainant and Student A.

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.

The District understands that OCR will not close the monitoring of this Agreement until such time as OCR determines that the District is in compliance with the terms of this Agreement and Section 504, 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, and Title II, 42 U.S.C. §§ 12131-12134, and its implementing regulation, at 28 C.F.R. Part 35, which were at issue in this case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of a breach. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Approved and agreed to on behalf of the District:

Superintendent or Designee
XXXXXXXX

Date