

Resolution Agreement
Texas Department of Assistive and Rehabilitative Services
OCR Complaint No. 06133005

The Texas Department of Assistive and Rehabilitative Services (DARS) voluntarily submits this Resolution Agreement to the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office. DARS commits to take the actions set forth below to ensure that the requirements of 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, are met with regard to the allegation in the above-referenced complaint. This Agreement is not intended to constitute, nor shall it be construed to constitute, an admission by DARS of any violation of Section 504 or Title II. DARS hereby voluntarily commits to the following:

ACTION ITEM:

Training

1. By **November 30, 2013**, DARS will provide training to all DARS counselors and administrators at its Beaumont, Texas, field office regarding: (a) DARS' policies and procedures for reopening a closed case (e.g., DARS/DRS Rehabilitation Policy Manual, 2.7.3); and (b) the Section 504 and Title II requirement that DARS, a public entity that receives Federal financial assistance, ensure that no qualified disabled person, on the basis of disability, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under DARS' programs and activities.

REPORTING REQUIREMENT:

- By **December 15, 2013**, DARS will provide documentation to OCR evidencing that the training required by Action Item 1 has been completed, including the identity of the individual(s) conducting the training and the individual's qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheet(s) or other documentation showing the individuals who attended the training.

ACTION ITEMS:

Individual Remedy

2. By **November 15, 2013**, DARS will notify the complainant in writing (via certified mail, return receipt requested) of his right to apply for services provided by DARS, including Vocational Rehabilitation Services.
3. If the complainant accepts DARS' offer and applies for services, DARS will determine whether the complainant is eligible to receive the requested services consistent with DARS' policies and procedures, Section 504, and Title II. DARS will also provide written notice of its appeal process to the complainant at the time the complainant applies for services and either: (a) when the plan for services is developed; or (b) the application for

services is denied, consistent with DARS policy (e.g., Texas DARS Business and Procedures Manual, 20.2).

REPORTING REQUIREMENTS:

- By **November 29, 2013**, DARS will provide OCR with a copy of the notification sent to the complainant in accordance with Action Item 2.
- By **November 29, 2013**, DARS will submit to OCR a narrative report documenting whether the complainant has applied for services, and if so, the nature of the services for which the complainant applied. If the complainant has applied for services, DARS will also:
 - Submit to OCR a copy of the written notice of DARS’ appeal process that was provided to the complainant at the time the application was made in accordance with Action Item 3; and
 - Submit to OCR, **within 30 calendar days** of its eligibility determination, a report stating whether it found the complainant was eligible for services and, if not, the reasons for its determination. DARS will also provide OCR with a copy of the written notice of DARS’ appeal process that was provided to the complainant after the eligibility determination was reached, in accordance with Action Item 3.

DARS understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient 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), and Title II, at 28 C.F.R. § 35.130(a), which were at issue in this case.

DARS 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, DARS understands that during the monitoring of this agreement, if necessary, OCR may visit DARS, interview staff, and request such additional reports or data as are necessary for OCR to determine whether DARS 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), and Title II, at 28 C.F.R. § 35.130(a), which were at issue in this case.

DARS 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 DARS written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Veronda Durden, Commissioner
Texas Department of Assistive and Rehabilitative Services

Date