

**Voluntary Resolution Agreement
Kennedale Independent School District
OCR Complaint #06-14-1500**

The Kennedale Independent School District (KISD) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the KISD commits to the following actions to ensure that it has achieved compliance with 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. § 12131, and its implementing regulation at 28 C.F.R. Part 35, with regard to the above-referenced complaint.

The KISD 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 Section 504 and Title II.

The KISD 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 KISD understands that during the monitoring of this agreement, if necessary, OCR may visit the district, interview staff, students, or others 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 Section 504 and its implementing regulation at 34 C.F.R. Part 104, and Title II and its implementing regulation at 28 C.F.R. Part 35, which are at issue in this case.

In light of the compliance concerns identified for Complaint Number 06141500, the KISD has agreed to the terms of this Agreement as set forth below.

The KISD 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 this Agreement, OCR shall give the KISD written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

Remedial Action Required

Action Item 1:

Section 504 and Title II Training

The KISD will provide training to all James A. Arthur intermediate school staff regarding its obligations pursuant to Section 504 and Title II, to provide a free and appropriate public education to all qualified students with disabilities residing within its jurisdiction. The training will be conducted by individuals knowledgeable about the laws and issues pertaining to disability discrimination, as well as the evaluation and reevaluation of students who are or are believed to be disabled.

Reporting Requirement for Action Item 1

- A. By January 15, 2015, the KISD will submit to OCR for review and approval, its proposal for complying with Action Item 1, above. Specifically, the KISD will provide to OCR the name(s) and credentials of the individual(s) who it proposes to conduct the training session(s), and copies of the proposed materials the KISD intends to use at the training session(s).
- B. Within 45 days of OCR's approval of the individual(s) and materials referenced in Reporting Requirement 1(A), the KISD will provide the training listed in Action Item 1: Section 504 and Title II Training.
- C. Within 10 days of the completion of the training referenced in Reporting Requirement 1(B), the KISD will provide OCR with documentation demonstrating that it has timely completed Action Item 1 above. Specifically, the KISD will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Action Item 1, the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

Action Item 2:

Invitation for Re-Enrollment/Re-evaluation

The KISD agrees to send the complainant (via certified mail, return receipt requested) written correspondence inviting the parent to re-enroll the student. The notice will advise the complainant that upon re-enrollment, the KISD will convene a meeting of a group of knowledgeable persons, as defined by Section 504. The group will review information from a variety of sources (which will be documented and carefully considered) and determine an appropriate placement and related aids and services to be provided in conformity with Section 504. The group will also consider whether the student needs compensatory and/or remedial services as a result of the KISD's failure to provide appropriate regular and/or special education or related services from October 10, 2013, when a KISD employee unilaterally removed certain related aids/services from the student's 504 Plan until July 21, 2014, the date on which the KISD restored the related aids and services to the student's 504 Plan. If the group determines that the student needs compensatory and/or remedial services, within 1 week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond six months from the date of the student's re-enrollment into the KISD. The KISD will provide the student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing. If the student re-enrolls in the KISD, the KISD will take the actions described in Action Item 2, above, within thirty (30) calendar days of the date of the student's re-enrollment (i.e., re-evaluation of the student's educational needs in accordance with Section 504).

Reporting Requirements for Action Item 2

- A. By January 15, 2015, the KISD will provide OCR with a copy of documentation of the notice provided to the complainant, inviting the student to re-enroll, as described in Action Item 2, above.

- B. By September 1, 2015, the KISD will submit to OCR a report documenting whether the student has re-enrolled in the KISD, and if so, when a group of knowledgeable people was convened to consider the Student’s placement, related aids and services and the possible need for compensatory services, in accordance with Section 504. Within 2 weeks of the decision as to whether compensatory and/or remedial services are needed, the KISD will submit to OCR documents supporting the group’s decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation of the decision made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any)¹ to the student. OCR will, prior to approving the KISD’s decision and plan for the proposed services, review the documentation to ensure that the KISD meets the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.

After reviewing the proposed services, OCR may question whether the KISD’s determination regarding the provision of compensatory services adequately addresses the failure to provide appropriate services under the 504 Plan. If so, OCR will, prior to approving the KISD’s decision and proposed services, raise its concerns with the KISD and request additional documentation to support that group’s educational determination regarding the sufficiency of the prescribed compensatory and/or remedial services.

- C. Within two weeks of the period in which the KISD provided any compensatory and/or remedial services, the KISD will provide documentation to OCR of the dates, times and locations that the compensatory and/or remedial services were provided, a description of what was provided, and the names of the service provider(s).

Superintendent

Date

¹ If OCR has determined or for the purposes of a Voluntary Resolution Agreement is assuming that a Section 504 Plan or IEP was not implemented and evidence suggests that the KISD’s failure to implement that plan has resulted in denial of a FAPE we ordinarily would expect the district to provide appropriate compensatory services. We included the above “if any” clause because there may be circumstances where no compensatory services are required notwithstanding the failure to implement a Section 504 Plan or IEP. For example, where the plan called for non-quantifiable services such as preferential seating, daily logs, etc., the group of knowledgeable persons may have determined that no educational deficits occurred as a result of the failure to implement and, therefore no compensatory and/or remedial services were deemed necessary.