

Resolution Agreement
Hardin Jefferson Independent School District
OCR Reference No. 06-14-1595

The Hardin Jefferson Independent School District (HJISD or the District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the District commits to the following actions, consistent with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and their respective implementing regulations, to resolve the compliance concerns raised by the complaint allegations. 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 and Title II, at 34 C.F.R. §§ 104.3, 104.4, 104.33-104.36, and 28 C.F.R. § 35.130, respectively, which were at issue in this case. This Agreement does not constitute an admission by the District that it discriminated or otherwise engaged in any wrongdoing.

The HJISD will ensure that any new facilities or part of a facility will be constructed in accordance with the U.S. Department of Justice (DOJ) guidelines. Be advised, the DOJ's 2010 ADA Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A (2010 Standards) became effective on March 15, 2011. Compliance with the 2010 Standards is required for new construction and alterations that were initiated on or after March 15, 2012. Unless otherwise noted, all structural changes or modifications to existing facilities pursuant to the Agreement will be in accordance with the technical and scoping requirements of the 2010 Standards referenced above.¹ New and altered facilities (or the identified new or altered part) will be readily accessible to and usable by individuals with disabilities.

OCR will make itself available to provide technical assistance to the District during the District's implementation of this agreement.

The District hereby voluntarily commits to the following:

RETALIATION

Action Item #1:

By **January 30, 2019**, the District will provide training regarding its obligation under Section 504 and Title II to provide a free appropriate public education (FAPE) to all qualified students with disabilities residing within its jurisdiction, as well as its obligation to refrain from retaliating against any person for the exercise of any right protected by Section 504 or Title II. The training should be provided to all relevant personnel, including, but not limited to, the District's Henderson Middle School campus administrators, faculty, and counselors. The training will be conducted by one or more individuals knowledgeable about the laws and issues pertaining to disability discrimination and retaliation. The training shall address, at a minimum the District's

¹ The 2010 Standards can be accessed at this DOJ website: www.ada.gov/2010ADASTandards_index.htm.

obligation to refrain from retaliating against any person because that person, or anyone else, exercised any right or privilege pursuant to Section 504 or Title II.

Reporting Requirement:

- a. At least 30 calendar days prior to the provision of the training described in Action Item #1, the HJISD shall submit to OCR, for review and approval, the identity and qualifications of the individual identified by the District to provide the training. The HJISD shall also provide to OCR a copy of the proposed training or detailed summary of the content proposed to be covered. If OCR has any objections to the content of the training, OCR will promptly notify the HJISD, no later than 10 calendar days prior to the date of the scheduled training.
- b. By **January 30, 2019**, the HJISD shall submit to OCR documentation evidencing that the training required by Action Item #1, has been conducted. The HJISD shall also submit to OCR documentation evidencing the name and title of individuals attending the training and the date(s) the training was conducted.

PARKING SPACES

Action Item #2

By **July 30, 2019** the HJISD will ensure that the accessible parking spaces located at the Administrative building comply with all applicable provisions of the 2010 Standards. Specifically, in accordance with all applicable provisions of Chapters 2 (“Scoping Requirements”), 3 (“Building Blocks”), 4 (“Accessible Routes”), and 5 (General Site and Building Elements) of the 2010 Standards, along with all associated figures and other cross-referenced provisions, the HJISD shall:

- a. Ensure that the accessible parking spaces are located on the shortest accessible route from the parking to an accessible entrance of the Administrative building;
- b. Ensure that the accessible parking spaces comply with all applicable width, signage, vertical clearance, access aisle, surface texture, and slope requirements; and
- c. Ensure that the accessible parking spaces comply with all other relevant accessibility requirements.

Reporting Requirement:

By **August 30, 2019**, the HJISD will submit a report to OCR documenting its compliance with the above-listed provisions of Action Item #2 as set forth in this Agreement. The report shall include, without limitation, measurements, photographs, technical drawings, and any other such documentation sufficient to evidence compliance with the above action item.

PLAYGROUND ACCESSIBILITY

Action Item #3

By **December 30, 2018**, the District will evaluate the outdoor playgrounds and the routes to those playgrounds located at the HJISD's China Elementary School (CES) and Sour Lake Elementary School (SLES) to determine whether they are compliant with the 2010 Standards and to determine which of these playgrounds, if any, require modification to make them compliant with the 2010 Standards in accordance with Action Items #4 and #5 of this Agreement.

Reporting Requirement:

By **January 30, 2019**, the District will provide OCR a report documenting its analysis of the CES and the SLES playgrounds completed in accordance with Action Item #3.

Action Item #4

By **September 30, 2019**, the HJISD will ensure that at least one playground at CES and at least one playground at the SLES fully meet the requirements of the 2010 Standards.

Action Item #5

By **September 30, 2019**, the HJISD will ensure that all alterations that were made to the CES and the SLES playgrounds after March 15, 2012, including ramp and ground surface alterations made in 2015, meet the requirements of the 2010 Standards, including Section 405 (ramps) and section 1008.2.6 (ground surfaces).

Reporting Requirement:

By **October 30, 2019**, the HJISD will submit a report to OCR demonstrating all modifications to the CES and the SLES playgrounds made in accordance with Action Items #4 and #5. This report shall include measurements, photographs, technical drawings, work orders, invoices, reports and other such documentation sufficient to show compliance with Section 504 and Title II regarding the above-referenced provisions of the Agreement.

Action Item #6

By **December 30, 2018**, the HJISD will develop and implement a plan to inspect and maintain the ground surfaces of the HJISD play areas on a regular basis to ensure continued compliance with the ASTM F 1951 as required by the 2010 Standards.

Reporting Requirement:

By **January 30, 2019**, the District will submit to OCR a copy of its ground surface maintenance plan developed in connection with Action Items #6.

WEBSITE ACCESSIBILITY

Action Item #7

Current Online Content and Functionality. By **September 20, 2019** the District agrees that it will take all actions necessary to ensure that individuals with disabilities have an equal opportunity to participate in the District's programs and activities offered through District's website or equally effective alternate access. To meet this commitment, the District will: develop a strategy for identifying inaccessible content and functionality for individuals with disabilities; develop a notice to persons with disabilities regarding how to request that the District provide access to online information or functionality; prominently post this notice on its home page and throughout its website; and develop a process to ensure that, upon request, inaccessible content and functionality will be made accessible² in an expedient manner.

Action Item #8

New Online Content and Functionality. By **August 20, 2019**, the District will establish a plan to ensure that all new online content and functionality developed, procured, or used after the date of this agreement will be fully accessible to individuals with disabilities. The plan should include any staff training that may be necessary to ensure full implementation with the plan.

Action Item #9

Undue Burden and Fundamental Alteration. This agreement does not require the District to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. In those circumstances where the District can demonstrate compliance would result in such an alteration or burden, the District will ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the District.

Reporting Requirement (Action Items #7-9):

Reporting Provision. By **December 30, 2019**, the District will submit a report to OCR demonstrating that it has fully satisfied the terms of this agreement. The report will describe benchmarks the District has reached, and on-going efforts to maintain web accessibility and usability of the District's website.

² "Accessible," for purposes of this agreement, means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, within the same timeframes, and with substantially equivalent ease of use.

GENERAL PROVISIONS

The HJISD understands that by signing the Agreement, it agrees to provide data and other information in a timely manner. Further, the HJISD understands that, during the monitoring of the Agreement, OCR may visit the HJISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the HJISD has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II, which were at issue in this case.

HJISD understands that OCR will not close the monitoring of the Agreement until such time that OCR determines that the HJISD has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II, which were at issue in this case.

The HJISD understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the HJISD written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Dru Ann Mushlian
Interim Superintendent
Hardin Jefferson ISD

Date