

RESOLUTION AGREEMENT

Alvin Independent School District OCR Case Number: 06151108

Alvin Independent School District (AISD 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 complainant's 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. 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 and is in compliance with the regulations implementing Section 504 and Title II. The District 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 District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach. This Agreement does not constitute an admission by the District that it discriminated or otherwise engaged in any wrongdoing, any such alleged wrongdoing, discrimination, or liability related thereto is hereby denied by the District. The District hereby voluntarily commits to the following:

ACTION ITEMS

By the following dates, AISD will complete the following actions:

1. By **October 31, 2015**, the AISD will formally notify the complainant in writing of its willingness to evaluate XXXX, XXXX XXXX (the Student), pursuant to Section 504, at 34 C.F.R. §§ 104.33 and 104.35. The written notice to the complainant will state that the complainant has the option to refuse the District's offer to evaluate the Student. If the complainant accepts the District's offer to evaluate the Student, the District will schedule an evaluation to determine the Student's educational placement and eligibility for special education and related aids and services in accordance with the regulatory requirements of Section 504 and Title II. The District will provide the complainant with a minimum of **30 calendar days** to respond to the District's offer to evaluate the Student.
2. If the complainant accepts the District's offer to evaluate the Student pursuant to Action Item #1 and provides the District with written consent to evaluate the Student, the District will complete the evaluation no later than **January 15, 2016**. As part of the evaluation process, the District will convene a group of knowledgeable persons (the group),

including the complainant, to determine the Student's educational placement and eligibility for special education and/or related aids and services under Section 504 and Title II. If the District determines the student has a disability, and is entitled to special education and/or related aids and services in accordance with Section 504 and Title II, it will immediately implement the Student's individualized education program (IEP) or Section 504 Plan. If the District determines the Student is a qualified student with a disability, it will also determine whether the Student needs compensatory and/or remedial services as a result of the District's lack of prior evaluation of the Student from approximately XXXX 2013 to XXXX 2015. If so determined, 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 December 2015. Finally, if the District determines the Student is a qualified student with a disability, it will also determine whether the Student's excessive absenteeism was directly related to his disability. If so, by **March 15, 2016** the District will take appropriate remedial action including, but not limited to, altering the Student's attendance and disciplinary records as determined necessary by the group. The District will provide the complainant notice of the procedural safeguards including the right to challenge the group's determinations through an impartial due process hearing.

3. By **February 28, 2016**, The District will provide training regarding its obligation under Section 504 and Title II to provide a 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, District administrators, school administrators, faculty, and counselors. For the purpose of this paragraph, "relevant personnel" shall be defined as those professional/certified staff members, including all teaching staff, who maintain responsibilities (1) for development and/or implementation of curriculum and instruction for students, including students with disabilities, and (2) implementation of all requirements set forth below. The training will be conducted by individuals knowledgeable about the laws and issues pertaining to disability discrimination, the evaluation of students who are or are believed to be disabled, the discipline of students with disabilities, and retaliation. The training shall address, at a minimum:

- The District's obligation to identify and evaluate all students within its jurisdiction who, because of disability, need or are believed to need regular or special education or related aids and services, including, without limitation, because of excessive absenteeism;
- The District's obligation, when disciplining a student with a disability, to conduct a manifestation hearing prior to issuing any exclusionary discipline that could constitute a significant change in the student's placement;
- The District's policies and procedures for carrying out its responsibilities to evaluate and re-evaluate students pursuant to Section 504, at 34 C.F.R. § 104.35;
- The District's policies and procedures for carrying out its obligation to provide procedural safeguards pursuant to Section 504, at 34 C.F.R. § 104.36; and

- The District’s 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 REQUIREMENTS

1. By **November 15, 2015**, AISD will provide OCR with documentation demonstrating that it has timely completed Action Item #1.
2. Within 2 weeks of making its evaluation decisions with respect to the Student as indicated in Action Item #2, the District will submit to OCR documents supporting the group’s decisions. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any special education and/or related aids and services to the Student, a description of and schedule for providing any compensatory and/or remedial services to the Student, and a description of and schedule for taking actions to address the Student’s absenteeism, if it is determined that the absenteeism was a manifestation of the Student’s disability. OCR will, prior to approving the District’s decisions and plans for providing the proposed services or taking the proposed actions, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33-104.36, in making these determinations.
3. In the event the District determines that the Student is entitled to compensatory and/or remedial services, the District will provide to OCR, no later than **April 15, 2016**, documentation of the dates, times, and locations that any compensatory and/or remedial services were provided. The documentation shall include a description of the services provided and the name(s) of the providers.
4. In the event the District determines that the Student’s excessive absenteeism was a manifestation of his disability, and that alteration of his attendance and/or disciplinary records is required, the District will provide to OCR, no later than **April 15, 2016**, documentation demonstrating that the necessary alterations were made.
5. By **March 15, 2016**, AISD will provide OCR with documentation demonstrating that it has timely completed Action Item #3. At a minimum, the documentation should include the date(s) of the training, the identity and qualifications of the trainer(s), a copy of all written materials provided, and a copy of sign-in sheets indicating the attendees.

Dr. Buck Gilcrease, Superintendent
Alvin Independent School District

Date