



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

RESOLUTION AGREEMENT
Devine Independent School District
OCR Case Number: 06151268

A. GENERAL TERMS & PRINCIPLES:

The Devine Independent School District (DISD, District, or recipient) enters into this Resolution Agreement (Agreement) with the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the DISD commits to the following actions, consistent with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulations 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 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35; to resolve the compliance concerns identified for Complaint Number 06-15-1268.

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

The recipient understands that OCR will not close the monitoring of the Agreement until such time that OCR determines that the recipient has fulfilled the terms of the Agreement and is in compliance with the statute(s) and regulations that were at issue in this case.

The recipient 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. §§ 100.8, 100.9), or judicial proceedings to enforce the Agreement, OCR shall give the recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The recipient is subject to Section 504 and Title II because it receives Federal financial assistance from the Department and is a public entity. Further, the recipient assures the Department that it will operate its programs and activities in compliance with Section 504 and Title II.

This Agreement does not constitute an admission by DISD that it discriminated or otherwise engaged in any wrongdoing. The District hereby commits to these General Terms and Principles, and to the following Action Items and Reporting Requirements.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

B. ACTION ITEMS & REPORTING REQUIREMENTS:¹

1. Title II Notice Revisions:

- a. *Action Item:* By **November 1, 2016**, the DISD shall provide to OCR (for review and approval) a copy of the District's proposed notice pursuant to Title II of the Americans with Disabilities Act of 1990, specifically as mandated under 28 C.F.R. § 35.106. This notice will make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II and its applicability to the services, programs, and activities of the DISD.
- b. *Action Item:* Within **twenty (20) calendar days** of receipt of OCR's approval of the proposed notice referenced in Action Item 1(a) above, the DISD shall adopt the revised Title II notice and make such notice available to applicants, participants, beneficiaries, and other interested persons (1) on its website; (2) in its student and parent handbooks; and (3) in any other such manner as the DISD typically distributes such notices.
- c. *Reporting Requirement:* Within **twenty (20) calendar days** of the DISD's distribution of the adopted Title II notice, the DISD will submit to OCR documentation evidencing that it has completed Action Item 1(b).

2. Section 504 & Title II Training for Staff:

- a. *Action Item:* By **December 5, 2016**, the DISD will provide training to DISD employees regarding its obligations, pursuant to Section 504 and Title II, to provide a FAPE to all qualified students with disabilities residing within its jurisdiction. The training shall be provided to all relevant personnel, including, but not limited to, District administrators, school administrators, teachers, and relevant District staff (e.g., Section 504 and/or Title II Coordinators, counselors, nurses). The training will be conducted by individual(s) knowledgeable about the laws and issues pertaining to disability discrimination, the evaluation and placement of students who are or are believed to be disabled, and the provision of FAPE to students under Section 504/Title II. The training shall address, at a minimum:
 - i. The District's obligations 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;
 - ii. The District's obligations to provide the placements, aids, and services identified by the District through the evaluation process as necessary to meet the student's individual needs;

¹ OCR notes that the District submitted additional information to our office during the period in which the recipient's request for a voluntary resolution agreement was pending. OCR will review this information in conjunction with other information the recipient submits to determine if any Action Step(s) has/have been met.

- iii. The District’s policies and procedures for carrying out its responsibilities to evaluate or re-evaluate a student pursuant to Section 504, at 34 C.F.R. § 104.35; and
 - iv. The District’s policies and procedures for carrying out its obligations to provide procedural safeguards pursuant to Section 504, at 34 C.F.R. § 104.36.
- b. *Reporting Requirement:* By **December 12, 2016**, the DISD will provide documentation to OCR evidencing that the training required by Action Item 2(a) 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.
3. Individual Student Remedies:
- a. *Action Item:* By **November 1, 2016**, the DISD will notify the complainants in writing of its willingness to evaluate [XXXX XXXX] (the Student) pursuant to Section 504, at 34 C.F.R. § 104.35. The DISD will provide the complainants with a **minimum of thirty (30) calendar days** to respond to its offer to evaluate the Student.
 - b. *Action Item:* If the complainants accept the DISD’s offer to evaluate the Student, the DISD will conduct the evaluation **within a reasonable time consistent with District policies and state and federal law** of the complainants’ acceptance. Pursuant to Section 504, at 34 C.F.R. § 104.35, the DISD will, as part of its evaluation, (1) draw upon information from a variety of sources; (2) document and carefully consider all such information; and (3) ensure that the evaluation is conducted by a group of persons who are knowledgeable about the Student, the meaning of the evaluation data, and placement options within the DISD. Based on the evaluation, the DISD will:
 - i. Determine whether the Student is a qualified individual with a disability or disabilities based on [XXXX to end of sentence]; and
 - ii. If the DISD determines the Student is a qualified individual with a disability or disabilities, then the District will also:
 - 1) Determine which regular or special education aids and related services should be provided to the Student and in what educational setting; and
 - 2) Notify the complainants in writing of the DISD’s determinations made pursuant to this Action Item and provide the complainants notice of the DISD’s system of procedural safeguards.
 - c. *Action Item:* **Within thirty (30) calendar days**, after providing proper written notice to the Student’s parent/guardian, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services as a result of the District’s failure to provide appropriate regular

and/or special education or related services during the 2014-2015 school year. If so, **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 June 1, 2017. The District 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.

- d. *Reporting Requirement:* By **November 15, 2016**, the DISD will provide OCR with a copy of the notification sent to the complainants in accordance with Action Item 3(a).
- e. *Reporting Requirement:* By **December 15, 2016**, the DISD will submit to OCR a narrative report documenting whether the complainants have accepted the DISD's offer to evaluate the Student and the scheduled date of the evaluation, if any has been requested by the complainants.
- f. *Reporting Requirement:* If the complainants accept the DISD's offer to evaluate the Student, the DISD will provide documentation to OCR indicating that the District complied with Action Item 3(b) **within thirty (30) calendar days** of completing the evaluation. This report should include, at a minimum, meeting minutes and related documentation evidencing that the meeting occurred; a copy of the document evidencing the related aids, services, and placements the committee determined to be necessary to meet the Student's individual needs; a written statement reflecting the determination made by the committee; and notices provided to the complainants in accordance with Action Item 3(b).
- g. *Reporting Requirement:* Following the adoption of any plans by the ARD/Section 504 committee in order to comply with Action Item 3(b), the DISD will provide documentation to OCR that any placements, aids, services deemed necessary to meet the Student's individual educational needs have, in fact, been provided. Documentation of such implementation of placements, aids, and services will be provided to OCR for each six-week period, and **no later than 10 days after the end of each six-week period during the 2016-2017 school year.**
- h. *Reporting Requirement:* **Within 2 weeks** of the decision as to whether compensatory and/or remedial services are needed in accordance with Action Item 3(c), the District will submit to OCR documents supporting the group's decision. 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 compensatory and/or remedial services (if any) to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met 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.

C. EXECUTION:

On behalf of the Devine Independent School District, I hereby agree to this Resolution Agreement with the U.S. Department of Education, Office for Civil Rights, Dallas Office, and commit to the general terms, principles, action items, and reporting requirements contained herein.

Name & Title of Authorized Official
Devine Independent School District

Signature of Authorized DISD Official

Date