

RESOLUTION AGREEMENT

Midway Independent School District OCR Case Number: 06151368

Midway Independent School District (MISD 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. This Agreement does not constitute an admission by the District that it discriminated or otherwise engaged in any wrongdoing. The District hereby voluntarily commits to the following:

ACTION ITEMS

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

1. By **February 15, 2016**, the MISD will formally notify the complainant in writing of its willingness to re-evaluate X---phrase redacted---X (Student), pursuant to Section 504, at 34 C.F.R. §§ 104.33 and 104.35, upon re-enrollment of Student in the District. The written notice to the complainant will state that the complainant has the option to refuse the District's offer to evaluate the Student to determine whether or not the Student needs compensatory and/or remedial services as a result of the District's alleged failure to properly evaluate the Student and provide the services listed in the Student's individualized education program (IEP). If the complainant accepts the District's offer to re-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 re-evaluate the Student by re-enrolling Student in the District and notifying the District of whether she accepts or denies the District's offer to re-evaluate.
2. If the complainant accepts the District's offer to evaluate the Student pursuant to Action Item #1, MISD will complete such re-evaluation and determine whether and to what extent it should provide any compensatory education services based on MISD's alleged failure to provide the Student with the requisite accommodations pursuant to his Section 504 Plan and alleged failure to properly evaluate the Student to determine his specific needs for regular or special education and related aids and services, during the 2014-2015 school year, pursuant to the Section 504 regulatory requirements at 34 C.F.R. § 104.35, by **April 15, 2016**.

3. If the MISD determines that compensatory and/or remedial services are required, then within 1 week of the re-evaluation the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **June 30, 2016**. 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.

4. By **July 1, 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. 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;
 - 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 **March 1, 2016**, MISD 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 compensatory and/or remedial services to the Student. 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 **July 30, 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. By **July 30, 2016**, MISD will provide OCR with documentation demonstrating that it has timely completed Action Item #4. 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.

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 a sixty (60) calendar days to cure the alleged breach.

Dr. George Kazanas, Superintendent
Midway Independent School District

Date