

Resolution Agreement
Fabens Independent School District
OCR Complaint No. 06151556

Fabens Independent School District (FISD) voluntarily submits this Resolution Agreement (“Agreement”) to the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office. FISD commits to take the actions set forth below to ensure that the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 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. § 12132, and its implementing regulations at 28 C.F.R. Part 35, are met with regard to the allegations in the above-referenced complaint. This Agreement is not intended to constitute, nor shall it be construed to constitute, an admission by FISD of any violation of Section 504 or Title II. FISD hereby voluntarily commits to the following:

ACTION ITEM 1: Training/Education

- 1.1 As described in Item 1.2, FISD will provide OCR with proposed training materials for the training required by this Action Item. Within **30 calendar days** of OCR’s written notification that the proposed training complies with the requirements of Section 504, Title II, and this Agreement, FISD will provide training to all FISD faculty, and all staff members who are directly involved in processing, investigating and/or resolving complaints or other reports of disability harassment, and any counselors or other FISD personnel who are likely to receive confidential reports of disability harassment. The training will include instruction regarding:
- (a) What type of conduct constitutes disability-based harassment, including examples, and a discussion about the negative impact that such harassment has on the educational environment;
 - (b) FISD’s responsibility under Section 504 and Title II to address disability-based incidents of harassment about which it knows or reasonably should have known;
 - (c) Identification of designated staff at FISD, including the District’s Section 504 Coordinator, who is/are available to answer questions or concerns regarding FISD’s policies and procedures or other issues related to disability-based harassment;
 - (d) FISD’s responsibility to take immediate and appropriate action to investigate reports of disability-based harassment pursuant to Board Policy FFH;
 - (e) How to conduct disability harassment investigations in an adequate, reliable, and impartial manner, including the appropriate standards to apply in such investigations, and an outline of the appropriate disciplinary measures for violations of FISD’s anti-harassment policy in accordance with FISD’s Student Code of Conduct;
 - (f) FISD’s responsibility to take prompt and effective steps reasonably calculated to end identified disability harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring;
 - (g) FISD’s duty to respond to incidents of disability harassment even if the misconduct also is covered by an anti-bullying policy, and regardless of whether a student, parent,

or other person has complained, filed a formal complaint or grievance, asked the school to take action, or identified the harassment as a form of discrimination; and
(h) Notice of the existence and substance of OCR’s July 25, 2000, Dear Colleague Letter (<http://www2.ed.gov/ocr/docs/disabharassltr.html>) addressing the responsibilities of district personnel in the context of disability-based harassment (providing a printed copy of said Letter to all trainees, including its http:// citation).

REPORTING REQUIREMENTS:

- 1.2 By **January 15, 2016**, FISD will provide OCR the proposed training materials to be used or distributed during the training, including any speaker’s notes, and the name, title, and qualifications of the trainer(s), for OCR’s review and approval.
- 1.3 Within **15 calendar days** of the training, FISD will provide documentation to OCR evidencing that the training required by Action Item 1.1 has been completed, including the date, time, and location of the training, the topics addressed at the training program, the identity of the individual(s) who conducted 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 who attended the training.

ACTION ITEM 2: Student Remedies

- 2.1 By **January 15, 2016**, FISD will provide the complainant with a written offer to convene placement meetings (i.e., IEP meeting or Section 504 committee meeting) regarding the complainant’s XXXX (“Students”) contingent upon the Students’ re-enrollment in FISD, to determine whether the Students, in order to receive a free appropriate public education (FAPE), must be provided any compensatory education or related aids and services resulting from alleged disability-based harassment, during the 2013-2014 or 2014-2015 school years.
- 2.2 If the complainant accepts FISD’s offer and re-enrolls the Students in FISD, FISD will conduct said meetings **within thirty (30) calendar days** of receiving notice of the acceptance. If the Section 504 committee determines that compensatory services are necessary for the Students, then **within twenty (20) calendar days** of said determination, a plan will be developed that specifies the services to be provided to the Students, the manner in which the services will be provided, when the services will be provided, the individuals responsible for providing the services, and the length of time the services will be provided.
- 2.3 Should the meetings referenced in Section 2.1 above take place, **within seven (7) calendar days of the meeting**, FISD will notify the complainant in writing (via certified mail, return receipt requested) of the determinations made pursuant to Action Items 2.1 and 2.2, and will provide the complainant notice of FISD’s system of procedural safeguards.

- 2.4 By **March 4, 2016**, FISD will provide the complainant with a written offer to provide the Students with counseling, contingent upon the Students' re-enrollment in FISD, to remedy the effects of any alleged disability-based harassment, during the 2013-2014 or 2014-2015 school years. The counseling may be provided by a qualified FISD employee, and should continue for as long as it is necessary, within that employee's professional discretion.

REPORTING REQUIREMENTS:

- 2.5 By **January 22, 2016** FISD will provide written documentation to OCR evidencing that Action Item 2.1 has been completed.
- 2.6 If the meetings referenced in Section 2.2 above take place, and the committee determines that compensatory services are not necessary for the Student to receive a FAPE, then **within fourteen (14) calendar days** of said determination, FISD will provide documentation to OCR evidencing how the committee made this determination, including the information relied upon in making its decision. In addition, this report should include, at a minimum, meeting minutes and related documentation evidencing that the meeting occurred (if it did), a written statement reflecting the determination made by the committee with regard to compensatory services, and notices provided to the complainant in accordance with Action Item 2.3.
- 2.7 If the meetings referenced in Section 2.2 above takes place, and the committee determines that compensatory services are necessary for the Students to receive a FAPE, then **within fourteen (14) calendar days** after the services have been provided in full, FISD will provide documentation to OCR evidencing that the compensatory services identified have been provided, including information regarding the specific services provided and the individuals responsible for providing the services; the manner in which the services were provided; and the length of time the services were provided.
- 2.8 **Within fourteen (14) calendar days** of the issuance of the notice, FISD will submit to OCR a copy of the written notice issued in accordance with Action Item 2.4. If the Students are re-enrolled in the FISD, by DATE the District will provide OCR with documentation evidencing that the above-referenced counseling was provided, including who provided the counseling.

FISD understands that OCR will not close the monitoring of this Agreement until OCR determines that FISD 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. § 104.33, and 28 C.F.R. § 35.130, respectively, which were at issue in this case. FISD 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, FISD understands that during the monitoring of this Agreement, if necessary, OCR may visit FISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether FISD 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. § 104.33, and 28 C.F.R. § 35.130, respectively, which were at issue in this case. FISD 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 FISD written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Eldefonso Garcia, Superintendent,
or District Representative

Date

Printed Name and Title