



# RESOLUTION AGREEMENT

Houston Independent School District

OCR Reference No. 06-16-1034

## A. GENERAL TERMS & PRINCIPLES:

OCR and the Houston Independent School District (HISD) enter into this agreement to resolve the allegations in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the HISD. The HISD assures the U.S. Department of Education, Office for Civil Rights (OCR) that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation 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 regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

Prior to the completion of OCR's investigation, the HISD agreed to resolve the issues of this investigation pursuant to Section 303(b) of OCR's *Case Processing Manual*. Accordingly, to resolve the issues of this investigation, the HISD agrees to take the following actions.

## B. ACTION ITEMS & REPORTING REQUIREMENTS:

### Action Item I: Policies and Procedures

1. **By January 15, 2018**, the HISD will adopt the attached administrative regulation with regard to the provision of auxiliary aids and services for individuals with disabilities, including but not limited to students who are XXXX XXXX. The HISD will ensure that its policies and procedures provide the following:
  - a. The HISD will take appropriate steps to ensure that its communications with applicants, students, members of the public and companions with disabilities are as effective as communications with others.
  - b. The HISD will furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, services, programs, and activities of the HISD.
  - c. The HISD will make an individualized determination with regard to requests for auxiliary aids and services from such individuals, in compliance with Section 504 and Title II, recognizing the following:
    - i. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place;
    - ii. In determining what types of auxiliary aids and services are necessary, the HISD will give primary consideration to the request of the individual with the disability (or an appropriate family member, such as a parent or guardian) unless it can demonstrate another equally effective means of communication exists or that the chosen method

- constitutes a fundamental alteration in the nature of the program or would result in an undue burden, in which case the HISD still has the obligation to provide, to the maximum extent possible, an effective auxiliary aid or service;
- iii. The HISD has the burden of proving that provided the requested auxiliary aid or service would result in a fundamental alteration or an undue burden, and the head of the HISD or his or her designee (i.e., another school official with authority to make budgetary or spending decisions) must make the determination that a particular auxiliary aid or service would result in a fundamental alteration in the nature of the service, program, or activity or in undue financial and administration burdens after considering all resources available for use by the HISD in funding and operation of the service, program, or activity. Such a determination must be accompanied by the decision maker’s written statement of the reasons for concluding that the requested auxiliary aid or service would cause such alteration or burdens; and
  - iv. In order to be effective, auxiliary aids and services will be provided in accessible format, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
2. The HISD will develop and distribute a policy memorandum to HISD staff and administrators who are involved in the process of making decisions regarding the provision of auxiliary aids and services for individuals who are XXXX XXXX, or have another sensory impairment. The memorandum shall include the following:
    - a. Information regarding any changes made to the HISD’s policies and procedures regarding the provision of auxiliary aids and services;
    - b. The HISD’s overall responsibilities to XXXX XXXX individuals under Section 504 and Title II, including the definition of “auxiliary aids and services” in 28 C.F.R. § 35.104 and its obligations outlined in Action Item I(1) above;
    - c. A statement indicating that deference to the request of the individual with a disability (or an appropriate family member, such as a parent or guardian) is desirable because of the range of disabilities, the variety of auxiliary aids and services, and different circumstances requiring effective communication; and,
    - d. If the HISD denies the requested auxiliary aid or service on the basis that it would constitute a fundamental alteration of the program or undue burden, the Superintendent or his or her designee (i.e., another school official with authority to make budgetary or spending decisions) must make that determination and the HISD must document in writing its statement of reasons for reaching that conclusion.
  3. The HISD will provide notice to HISD employees, students, and parents/guardians the availability of auxiliary aids and services. This notice will include where and how to make a request for such aids and services and will be published both in written publications and on the HISD’s website.

### **Action Item I: Reporting Requirements**

1. **By January 31, 2018**, the HISD will provide OCR a copy of the policy memorandum required by Action Item I(2) and notice required by Action Item I(3), for OCR’s review and approval.
2. The HISD will provide OCR:

- a. A link or links to the HISD website page(s) containing the administrative regulation and notice, **within thirty (30) calendar days of receiving OCR’s written approval of the policy memorandum required by Action Item I(2) and notice required by Action Item I(3)**,
- b. A copy of all policy manuals and student or employee handbooks that include the policies and procedures and notice, **by September 1, 2018**, and
- c. A copy of the policy memorandum as set forth in Action Item I(2) above and a description of the method in which the memorandum was disseminated to HISD staff and administrators, including an email list of all employees who were provided a copy of the policy memorandum and the date provided, **within thirty (30) calendar days of receiving OCR’s written approval of the policy memorandum required by Action Item I(2) and notice required by Action Item I(3)**.

**Action Item II: Training**

1. **By January 15, 2018**, the HISD will develop, and submit to OCR for review and approval, proposed training for all HISD staff and administrators who are involved in the process of making decisions regarding the provision of auxiliary aids and services for individuals who are XXXX XXXX, or have other sensory impairments. The training shall cover, at a minimum, the topics and policies and procedures described at Action Item I(1) above and must be presented by a qualified individual or individuals.
2. **Within sixty (60) calendar days of written notification from OCR of approval of the training described in Action Item II(1)**, the HISD will provide the approved training by a qualified individual or individuals to all HISD staff and administrators who are involved in the process of making decisions regarding the provision of auxiliary aids and services for individuals who are XXXX XXXX, or have other sensory impairments.

**Action Item II: Reporting Requirements**

1. **By January 15, 2018**, the HISD will provide OCR all proposed training materials to be used and distributed during the training described in Action Item II, including all speaker’s notes, PowerPoints (or other presentations), and handouts, and the name, title, and qualifications of the trainer(s).
2. **Within ten (10) calendar days of the completion of the training required by Action Item II**, the HISD will provide to OCR documentation demonstrating that it has provided appropriate staff and administrators with the training referenced in Action Item II, including the date(s) of the training; all speaker’s notes, PowerPoints (or other presentations), and handouts; and the name, title, and qualifications of the trainer(s).

**Action Item III: Student Remedy**

1. **Within thirty (30) calendar days of the completion of the training required by Action Item II**, the HISD will evaluate the request for XXXX XXXX XXXX - XXXX XXXX (XXXX) for the Student in accordance with the policies and procedures described in Action Item I.

2. **Within thirty (30) calendar days of the completion of the training required by Action Item II**, the HISD will convene a XXXX XXXX XXXX to determine what, if any, compensatory and/or remedial services the Student requires to remedy the HISD's failure to properly consider XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX since XXXX XXXX, XXXX.<sup>1</sup> If the HISD determines that the Student needs compensatory and/or remedial services, the HISD will develop a plan for providing timely compensatory and/or remedial services **with a completion date not to extend beyond one hundred eighty (180) calendar days from the date of the decision to provide compensatory and/or remedial services**. Any agreement to provide compensatory or remedial services shall end upon the Student's graduation from high school.
3. **By December 20, 2017**, the HISD will send the Student's parent a letter, via certified mail with return receipt requested, requesting documentation of education related costs incurred since XXXX XXXX, XXXX,<sup>2</sup> for measures that the Student's parent took to remedy the alleged failure of the HISD to provide effective communication, which shall include a request for the parent's rationale as to how the expenses are related to the alleged denial of effective communication, which the Student's parent must provide within thirty (30) calendar days of the date of the request. The HISD shall have no obligation to reimburse any expense in the absence of itemized receipts detailing individual expenses and amounts actually paid.
4. **By February 9, 2018**, the HISD will provide OCR with a detailed report of its determination regarding which costs to reimburse, including an itemized list of costs that the Student's parent identified, any documentation of costs that the Student's parent provided, and the HISD's rationale for rejecting any costs, for OCR's review and approval. The HISD will review the expenses submitted in relation to the totality of circumstances surrounding the education of the Student and whether the alleged denial of effective communication has resulted in an educational deprivation.
5. **Within twenty (20) school business days of receiving OCR's approval of the reimbursement amount**, the HISD will reimburse the Student's parent that approved amount.

### **Action Item III: Reporting Requirements**

1. **Within forty-five (45) calendar days of the completion of the training required by Action Item II**, the HISD will submit to OCR documents evidencing its consideration of the request for CART for the Student and associated decision (e.g., meeting minutes, documentation regarding the provision of CART, etc.).
2. If compensatory and/or remedial services are deemed necessary for the Student, **within two hundred (200) calendar days from the date of the decision to provide compensatory and/or remedial services**, the HISD will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services were provided, a description of what was provided and how it was provided, and the names, titles, and contact information (telephone numbers and email addresses) of the service providers.

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<sup>1</sup> This is the first date acknowledged by the HISD as the initial request for XXXX services.

<sup>2</sup> This is the first date acknowledged by the HISD as the initial request for XXXX services.

3. **By January 15, 2018**, the HISD will provide OCR with the letter required by Action Item III(3).
4. **By February 15, 2018**, the HISD will provide OCR with a detailed report of its determination regarding which costs to reimburse, including an itemized list of costs that the Student’s parent identified, any documentation of costs that the Student’s parent provided, and the HISD’s rationale for rejecting any costs, for OCR’s review and approval.
5. **Within forty-five (45) calendar days of receiving OCR’s approval of the reimbursement amount**, the HISD will provide OCR with a copy of the reimbursement payment made in accordance with Action Item III(5).

**C. EXECUTION:**

The HISD understands that, by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the HISD understands that, during the monitoring of this Agreement, if necessary, OCR may visit the HISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the HISD has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.21, and Title II implementing regulation at 28 C.F.R. § 35.149. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The HISD 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 HISD written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the HISD’s representative below.

\_\_\_\_\_  
Superintendent or Designee’s Name

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Superintendent or Designee’s Signature

\_\_\_\_\_  
Date