



RESOLUTION AGREEMENT

Fort Worth Academy of Fine Arts
OCR Case Numbers: 06-16-1548 and 06-16-1100

A. GENERAL TERMS & PRINCIPLES:

OCR and the Fort Worth Academy of Fine Arts (FWAFA) enter into this agreement to resolve the allegations in the above-referenced complaints. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by FWAFA. FWAFA 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 investigations, FWAFA agreed to resolve the issues of these investigations pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve the issues of these investigations, FWAFA agrees to take the following actions.

B. ACTION ITEMS & REPORTING REQUIREMENTS:

STUDENT-SPECIFIC REMEDIES:

Action Item 1

If eligible for re-enrollment, **by August 14, 2017**, FWAFA will notify the XXXX XXXX (Student) in writing (via certified mail, return receipt requested) of its willingness to re-evaluate her pursuant to Section 504, at 34 C.F.R. § 104.35. FWAFA will provide the Student with a **minimum of ten (10) calendar days** to respond to its offer.

Reporting Requirements: Action Item 1

- a. **By August 28, 2017**, FWAFA will provide OCR with a copy of the notification sent to the Student in accordance with Action Item 1.
- b. **By August 28, 2017**, FWAFA will submit to OCR a narrative report (e.g., email) documenting whether the Student has accepted FWAFA's offer to re-evaluate her and the scheduled date of the evaluation.

Action Item 2

If written consent is provided and the Student is eligible for re-enrollment, **by September 1, 2017**, FWAFA will evaluate the Student and determine the appropriate educational placement for her consistent with the procedures listed in the regulation implementing Section 504 at 34 C.F.R. §§ 104.34 and 104.35, and in accordance with the provision of a free appropriate public education (FAPE). If the Section 504 committee determines that the Student is a qualified individual with a disability, then the committee will

convene and determine what regular or special education and related aids and services are appropriate to meet the Student's individual educational needs as adequately as the needs of non-disabled persons are met. FWAFA will set forth the regular or special education and related aids and services in a written Section 504 Plan or written Individualized Education Program (IEP) and commence providing the services outlined in the Section 504 Plan or IEP immediately.

Reporting Requirements: Action Item 2

If written consent is provided, **by September 8, 2017**, FWAFA will submit to OCR, for its review and approval, documentation which evidences its completion of a comprehensive Section 504 evaluation of the Student and FWAFA's decision regarding the Student's eligibility for services pursuant to Section 504, including a copy of the Section 504 Plan or IEP prepared for the Student, or if it is determined the Student is not eligible for services, documentation evidencing the evaluation and determinations made by the Section 504 committee. In addition, FWAFA will submit to OCR, for its review and approval, documentation that notice of procedural safeguards was provided to the Student.

Action Item 3

By September 1, 2017, after providing proper written notice to the Student, a group of knowledgeable persons will determine whether the Student needs compensatory and/or remedial services as a result of FWAFA's alleged failure to provide appropriate regular and/or special education or related services during the 2015–2016 school year. If so, **within one (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 **May 31, 2018**. FWAFA will provide the Student notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

Reporting Requirements: Action Item 3

- a. If written consent is provided, **within two (2) weeks** of the decision as to whether compensatory and/or remedial services are needed, FWAFA 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 FWAFA's decision and plan for providing the proposed services, review the documentation to ensure that FWAFA 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.
- b. If written consent is provided, **within two (2) weeks** of the **end of each six (6)-week period** during the **2017-2018 school year**, FWAFA 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 the name(s) of the service provider(s).

Action Item 4

By August 21, 2017, FWAFA will provide the Student with the choice of either making up the assignments where she received zeros (0) during the XXXX XXXX and XXXX XXXX semesters or re-computing her class semester grades without counting the zeroes to determine her final semester class grade. Once the respective class grades have been recomputed in accordance with this item, her overall grade point average will be recomputed to reflect the changes in the class grades. FWAFA will also inform the Student that she may submit documentation showing her completion of courses/credits at another institution or through a homeschooling program. After a review of the home school program curriculum, course(s) of study, work of the student, demonstrated mastery of TEKS, and/or other appropriate assessment, FWAFA will revise her FWAFA records and transcript to include those courses/credits, including for the purpose any calculation of courses/credits needed to fulfill FWAFA's graduation requirements, if FWAFA's review shows that the courses/credits meet the appropriate requirements. FWAFA will provide the Student with a **minimum of ten (10) calendar days** to respond with her chosen option and provide any documentation regarding completion of courses/credits.

Reporting Requirements: Action Item 4

- a. **By September 8, 2017**, FWAFA will provide OCR with a copy of the notification sent to the Student in accordance with Action Item 4.
- b. **By September 8, 2017**, FWAFA will submit to OCR a narrative report (e.g., email) documenting the Student's choice, any documentation regarding completion of credits/courses that the Student provided, and FWAFA's response, including the new XXXX XXXX and XXXX XXXX class grades, the changes in her overall grade point average, if any, and revisions to her FWAFA records and transcript to reflect the completion of courses/credits at another institution or through a homeschooling program.

Action Item 5

By September 1, 2017, with no admission of liability, FWAFA will reimburse the complainant all copay medical expenses incurred for any XXXX XXXX undergone by the Student since XXXX XXXX, XXXX, that are allegedly attributable to FWAFA. FWAFA can request, and the complainant must provide to FWAFA within thirty (30) days of the request, receipt copies of the reimbursable copayments made for the Student's XXXX. The maximum amount of reimbursement required to the complainant shall not exceed two thousand five-hundred dollars (\$2,500).

Reporting Requirements: Action Item 5

By September 8, 2017, FWAFA will provide OCR with a copy of the reimbursement payment made to the complainant in accordance with Action Item 5.

SCHOOL-WIDE REMEDIES:

Action Item 6

By September 29, 2017, FWAFA will review and draft or modify its current policies for OCR's approval:

- a. Revisions, where appropriate, of its notice of nondiscrimination, as contained in the Student Code of Conduct, to include a prohibition against harassment on the basis of disability;
- b. Revisions, where appropriate, of the Student Code of Conduct to specify that the grievance procedures are applicable to complaints of discrimination and harassment on the basis of disability; and,
- c. Revisions, where appropriate, of FWAFA's grievance procedures regarding disability harassment to ensure that they include the following elements:
 - i. notice of the grievance procedures, including where complaints may be filed;
 - ii. application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination/harassment carried out by employees, other students, or third parties;
 - iii. provisions for adequate, reliable, and impartial investigation of written and oral complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
 - iv. designated and reasonably prompt time frames for the major stages of the complaint process;
 - v. notice to the complainant and alleged perpetrator of the outcome of the complaint; and
 - vi. assurance that the school will take steps to prevent recurrence of any discrimination/harassment and remedy discriminatory effects on the complainant and others, if appropriate.

Within sixty (60) days of OCR's approval of the revisions to its policies (the Revised Policies) and the Student Code of Conduct, FWAFA will adopt, publish, and disseminate any Revised Policies, procedures, and notice of nondiscrimination in its electronic and printed materials. For printed materials, inserts may be used pending reprinting.

Reporting Requirement: Action Item 6

By September 29, 2017, FWAFA will submit for OCR's approval:

- a. Revisions, where appropriate, of its notice of nondiscrimination, as contained in the Student Code of Conduct, to include a prohibition against harassment on the basis of disability;
- b. Revisions, where appropriate, of the Student Code of Conduct to specify that the grievance procedures are applicable to complaints of discrimination and harassment on the basis of disability; and,
- c. Revisions, where appropriate, of FWAFA's grievance procedures regarding disability harassment to ensure that they include the following elements:
 - i. notice of the grievance procedures, including where complaints may be filed;
 - ii. application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination/harassment carried out by employees, other students, or third parties;
 - iii. provisions for adequate, reliable and impartial investigation of written and oral complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
 - iv. designated and reasonably prompt time frames for the major stages of the complaint process;
 - v. notice to the complainant and alleged perpetrator of the outcome of the complaint; and
 - vi. assurance that the school will take steps to prevent recurrence of any discrimination/harassment and remedy discriminatory effects on the complainant and others, if appropriate.

Action Item 7

By January 31, 2018, FWAFA will **conduct training** regarding its obligation under Section 504 and Title II to provide a FAPE to all qualified students with disabilities attending its school, and its duty to fully implement students' Section 504 plans or IEPs, and, when it is established that a student with a disability receiving FAPE services has been bullied/harassed in any respect, its obligation to evaluate the student for the purpose of determining whether the effects of the bullying/harassing behavior have changed the student's individual educational needs such that the student's established Section 504 plan or IEP must be modified. The training must be provided to all relevant personnel, including, but not limited to, FWAFA administrators, faculty, and counselors. The training will be conducted by individuals knowledgeable about the laws and issues pertaining to disability discrimination and retaliation. The training shall address, at a minimum, FWAFA's policies and procedures for carrying out its responsibilities under Section 504 and Title II to provide a FAPE to each qualified disabled person who is attending its schools, regardless of the nature or severity of the person's disability, including FWAFA staff members' obligation to fully implement students' Section 504 plans and IEPs and, when it is established that a student with a disability receiving FAPE services has been bullied/harassed in any respect, its obligation to evaluate the student for the purpose of determining whether the effects of the bullying/harassing behavior have changed the student's individual educational needs such that the student's established IEP must be modified. The FWAFA training will also address FWAFA's obligations under its Revised Policies addressed in Action Item 6 above including, but not limited to, FWAFA's faculty's, staff's, and administrators' obligations to identify and report

disability harassment of students; investigative procedures required under FWAFAs grievance procedures; prevention of disability harassment; and methods to remedy disability harassment of students.

Reporting Requirement: Action Item 7

- a. **By November 30, 2017**, and prior to the training that Action Item 7 requires, FWAFAs will provide OCR, for review and approval, a copy of the training module and/or outline of the training materials that FWAFAs will use; the name, credentials, and contact information for the person(s) who will conduct the training; and a description or copy of the notification that FWAFAs will use to inform attendees of the mandatory training.
- b. **By February 7, 2018**, FWAFAs will provide OCR with detailed information regarding the training that Action Item 7 requires. FWAFAs will provide OCR with sign-in sheets for all training sessions showing all staff who attended the training; the date of the training session(s); a copy of the training materials used; and the name, title, credentials, and contact information of the person(s) who provided the training.

Action Item 8

By September 8, 2017, FWAFAs will gather narratives, or copies, of any written or oral complaints made by students, or on their behalf, regarding disability harassment that occurred during the 2016-17 school year, if any. FWAFAs will maintain a copy of each investigative file that includes, at a minimum, the factual allegations, the investigative component, witness statements, findings, and actions taken to resolve and prevent the alleged disability harassment.

Reporting Requirement: Action Item 8

By September 8, 2017, FWAFAs will forward to OCR a copy of all narratives and written complaints made by students, or on their behalf, regarding disability harassment that occurred during the 2016-17 school year, if any. FWAFAs will also forward to OCR a copy of each 2016-17 school year investigative file that includes, at a minimum, the factual allegations, the investigative component, witness statements, findings, and actions taken to resolve and prevent the alleged harassment.

C. EXECUTION:

FWAFAs 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, FWAFAs understands that, during the monitoring of this Agreement, if necessary, OCR may visit FWAFAs, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether FWAFAs 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 these cases.

FWAFA 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 FWAFA 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 FWAFA's representative below.

Authorized Official's Name (Printed)

Authorized Official's Signature
Fort Worth Academy of Fine Arts

Date