

**Resolution Agreement**  
**Harlandale Independent School District**  
**OCR Complaint No. 06161446**

The Harlandale Independent School District (HISD, Recipient, or District) agrees to resolve all matters at issue in the U.S. Department of Education, Office for Civil Rights (OCR) investigation, OCR Complaint No. 06161446. The Complainant in this matter is XXXXXXXX (the Complainant) and the Student is XXXXXXXX (the Student). Although the District denies that discrimination occurred, the District submits this Resolution Agreement (Agreement) to ensure continued compliance 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. § 12132, and its implementing regulation at 28 C.F.R. Part 35.

**INDIVIDUAL STUDENT RELIEF**

**Action Item 1**

Within 30 calendar days of this agreement, HISD will hold a meeting concerning the Student with a group of knowledgeable persons, to determine whether the Student needs any compensatory and/or remedial services as a result of any failure to provide appropriate regular and/or special education or related services XXXXXXXX during the 2015-2016 school year (e.g. an ARD meeting). HISD will schedule a meeting in accordance with the regulatory requirements of Section 504 and Title II. HISD will provide proper written notice to the Student's parent/guardian concerning the date and time of the meeting, and the right of the parent(s)/guardian(s) to attend. If, in the meeting, the group determines that compensatory and/or remedial services are required, 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 October 30, 2017. HISD will provide the Complainant notice of the procedural safeguards including the right to challenge the group's determinations through an impartial due process hearing.

**Reporting Requirement 1**

- a) Within 14 calendar days of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include:
- a. A list of all participants in the meeting (including names, titles, role in the meeting, and whether or not the participant was a voting member of the group).
  - b. Records of all information considered during the meeting
  - c. Minutes or notes from the meeting
  - d. An explanation of the decisions made during the meeting
  - e. A description of and schedule for any compensatory and/or remedial services (if any) determined appropriate for the student
  - f. A copy of the written notification sent to the Complainant concerning the date and time of the meeting, and the right of the parent(s)/guardian(s) to attend, and proof of transmission to the Complainant (e.g.: email chain, certified mail and tracking receipt, etc.)

Prior to approving the District's decision and plan for providing the proposed services, OCR will 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.

- b) If compensatory and/or remedial services are required, by November 15, 2017, the District 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 names, titles, and contact information (telephone numbers and email addresses) of the service providers.

## **POLICIES AND PROCEDURES PROHIBITING DISCRIMINATION AND HARASSMENT**

### **Action Item 2**

Within 60 calendar days of this agreement, HISD will review and, if determined appropriate, revise its policies and procedures prohibiting discrimination, including harassment, on the basis of disability. HISD will ensure that its policies and procedures provide for the prompt and effective investigation of reported incidents of discrimination and/or harassment on the basis of disability. Toward this end, the HISD will ensure that its policies and procedures contain, at a minimum:

- a) A statement setting forth HISD's commitment to having a school environment free from all discrimination and/or harassment on the basis of disability. The statement will explain that HISD prohibits discrimination and/or harassment in the HISD environment, including all academic, extra-curricular and HISD-sponsored activities, whether on or off campus. The statement will encourage students to immediately report incidents of discrimination and/or harassment. The statement will emphasize that all employees, including faculty, staff, administrators, security officers and coaches are prohibited from engaging in conduct constituting harassment of students on the basis of disability, and are required to promptly report any incidences of harassment brought to their attention. The statement will specify that HISD will investigate formal and informal complaints of discrimination and/or harassment.
- b) Definitions with specific examples of the types of conduct and behavior that is prohibited by the policy, including examples of staff-to-student and student-to-student conduct.
- c) Identification of the kinds of activities and sites where prohibited conduct could occur.
- d) A notice that the procedures apply to complaints of discrimination and/or harassment raised by employees, students or third parties.
- e) An explanation of how to report discrimination and/or harassment and/or file a complaint (formally or informally).
- f) A description of HISD's informal and formal complaint procedures, including a Complaint Form, designated prompt timeframes for HISD's investigation of a complaint and a requirement that written notice of the outcome be provided to the parties.
- g) Identification by name, title, and telephone number of HISD's Section 504/Title II Coordinator. If different, the procedures shall also specify the individual at each HISD campus who is responsible for receiving and investigating reports of discrimination and/or harassment on the basis of disability. This information shall include an alternate designee for receiving complaints at

the campus level, in the event that the designated individual for receiving complaints has a conflict of interest or is named as the individual allegedly committing the discrimination/harassment in a complaint.

- h) A requirement that the designated HISD employee(s) document all reports of discrimination and/or harassment and that HISD establish a procedure for recordkeeping for complaints received and of HISD's investigation of complaints of alleged discrimination and/or harassment in a complaint.
- i) A recommendation that HISD staff who observe acts of discrimination and/or harassment intervene to stop the discrimination and/or harassment, unless circumstances would make such intervention dangerous, and a requirement that HISD staff report such incidents to the District Section 504/Title II Coordinator and/or the designated campus contact, as appropriate.
- j) Examples of the measures the HISD will take to stop the discrimination and/or harassment and remedy the discrimination and/or harassment and prevent recurrence, including the remedies available to address the discriminatory effects on the individual discriminated against and/or harassed.
- k) The prohibition of actual or threatened retaliation or any act of intimidation to prevent or otherwise obstruct the reporting of discrimination or harassment.
- l) An explanation of the procedures HISD will use to investigate alleged incidents of discrimination and/or harassment on the basis of disability, e.g., witness interviews to determine whether a hostile environment exists, and timeframes for each stage of the investigation (i.e. complaint, appeal, etc.).

### **Reporting Requirement 2**

Within 75 calendar days of this agreement HISD will submit its procedures prohibiting discrimination, including harassment, on the basis of disability, as reviewed and revised pursuant to Action Item 2, to OCR for review and approval. If OCR has any objections to the policies and procedures submitted by HISD for review, OCR will notify HISD of its objections. Within 30 calendar days of receipt of OCR's approval, HISD will provide documentary evidence that the policies and procedures have been published and made available to students, parents/guardians, and employees.

### **Action Item 3**

Within 60 calendar days of this agreement, HISD agrees to review its employee handbook to determine whether it contains rules of behavior, offense categories, and disciplinary procedures to appropriately address violations of HISD's anti-discrimination and harassment policies applicable to staff, as developed pursuant to Action Item 2. HISD agrees to revise the HISD employee handbook to the extent necessary to ensure it contains, or otherwise incorporates by reference, such rules of behavior, offense categories and disciplinary procedures, as developed pursuant to Action Item 2.

### **Reporting Requirement 3**

Within 75 calendar days of this agreement, HISD will submit the employee handbook as reviewed and revised pursuant to Action Item 3 to OCR for review and approval. If OCR has any comments to the revisions to the employee handbook submitted to OCR for review, OCR will

notify HISD of its comments. If OCR provides comments, within 30 days of receipt of OCR's comments HISD will provide a revised handbook which conforms to OCR's comments. Within 30 calendar days of receipt of OCR's approval, HISD will provide documentary evidence that the policies and procedures have been published and made available to employees.

## **TRAINING AND PROFESSIONAL DEVELOPMENT**

### **Action Item 4**

Within 60 calendar days of the date of that OCR provides its approval as described in Reporting Requirement 3, HISD will create a training for all H.W. Schulze Elementary School Section 504/Title II coordinators, Special Education Administrators, school administration, nursing staff, faculty, and other relevant staff, if any, regarding its obligations, pursuant to Section 504 and Title II, to provide a free appropriate education (FAPE) to all qualified students with disabilities residing within its jurisdiction. The training will be conducted by individual(s) knowledgeable about the laws and issues pertaining to disability discrimination, the provision of FAPE to students pursuant to Section 504, and the applicability of FAPE considerations in the bullying and harassment context. The training shall address, at a minimum:

- (1) HISD's obligation to provide students services that are identified in their Section 504 plans at the time and in the manner specified in such plan;
- (2) HISD's obligation to conduct at Section 504 meeting meetings prior to any significant change in placement of a Student with a Section 504 plan, and when on notice of significant changes in performance or behavior of a student with a disability;
- (3) What type of conduct constitutes bullying or harassment on the basis of disability, and that such conduct is not only prohibited between students, but is also prohibited when the alleged bully or harasser is a teacher or other HISD employee;
- (4) The obligation of all HISD personnel to recognize and report instances of bullying or harassment to the appropriate point of contact at HISD;
- (5) That bullying or harassment of a Student with a Section 504 plan can in some cases result in a denial of FAPE. This may be true regardless of the basis on which the Student was bullied;
- (6) The obligation of HISD to conduct an 504 committee meeting for any student with a Section 504 plan that has been a victim of bullying or harassment, or that HISD suspects has been subject to bullying or harassment, in order to ensure that the Student is continuing to receive FAPE. This obligation applies regardless of the basis on which the Student was bullied; and
- (7) HISD's obligation to respond appropriately to bullying and harassment must be reasonably calculated to end the bullying or harassment, and must not itself result in the denial of the victim's FAPE.

### **Reporting Requirement 4**

- a) Within 75 calendar days of the date of that OCR provides its approval as described in Reporting Requirement 3, HISD will submit a draft of the training to OCR (including any handouts, scripts, and slides pertaining to the training), along with the name(s) and credentials of the individual(s) that will conduct the training. OCR will review the submitted

materials and provide written confirmation of approval, or provide substantive comments necessary to ensure the accuracy and completeness of the proposed training.

- b) If OCR provides substantive comments in response to the draft training as set forth in Action Item 4, above, within 30 calendar days of the receipt of such comments, HISD will provide OCR with a revised draft which conforms to OCR's comments.

#### **Action Item 5**

Within 20 calendar days of HISD receiving OCR approval of the training referenced in Action Item 4 from OCR, HISD will conduct the training.

#### **Reporting Requirement 5**

Within 30 calendar days of HISD receiving OCR approval of the training referenced in Action Item 4, HISD will provide OCR with documentation demonstrating that it has timely completed Action Item 5 above. Specifically, HISD will provide to OCR the names of all individuals who attended the training session(s), the date(s) and time(s) the training session(s) occurred, the name(s) and credentials of the individual(s) who conducted the training session(s), and copies of the materials disseminated at the training session(s).

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that HISD has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4 and 104.33, and Title II, at 28 C.F.R. § 35.130, which were at issue in this case. The District also 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, at 34 C.F.R. §§ 104.4 and 104.33 and Title II, at 28 C.F.R. § 35.130 which were at issue in this case.

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

This Agreement has been entered into voluntarily by HISD and does not constitute an admission by HISD that it is not in compliance with Section 504 or Title II or their implementing regulations.

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Date

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XXXXXX  
XXXXXX  
Harlandale ISD