

**Resolution Agreement**  
**Midway Independent School District**  
**OCR Complaint No. 06-16-1661**

The Midway Independent School District (MISD) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the MISD 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 (amended 1992), 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. The MISD is committed to complying fully with Section 504 and Title II, and, accordingly, it has voluntarily agreed to take the steps outlined in this Agreement. This Agreement does not constitute an admission by the MISD that it discriminated or otherwise engaged in any wrongdoing.

The MISD hereby voluntarily commits to the following:

**Action Item 1**

**Section 504 and Title II Training**

The MISD will provide training to [X---phrase redacted---X] staff regarding its obligations pursuant to Section 504 and Title II. The training shall address, at a minimum, the identification and evaluation (including re-evaluation) of all students who, because of disability, need or are believed to need special education or related aids and services, consistent with the Section 504 regulation at 34 C.F.R. §104.35.

**Reporting Requirements**

- A. By **June 1, 2017**, the MISD will submit to OCR for review and approval, its proposal for complying with Action Item 1, above. Specifically, the MISD will provide to OCR the name(s) and credentials of the individual(s) who it proposes to conduct the training session(s), and copies of the proposed materials the MISD intends to use at the training session(s).
- B. Within **60 days** of OCR's approval of the individual(s) and materials referenced in Reporting Requirement 1(A), the MISD will provide the training listed in Action Item 1: Section 504 and Title II Training.
- C. Within **30 days** of the completion of the training referenced in Reporting Requirement 1(B), the MISD will provide OCR with documentation demonstrating that it has timely completed Action Item 1 above. Specifically, the MISD will provide to OCR the names of all individuals who attended the training session(s) provided pursuant to Action Item 1, 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).

## **Action Item 2**

### Evaluation

By **May 1, 2017**, the District shall provide notice to the complainant that MISD will conduct an evaluation of the Student to identify the Student's need for special education or related aids and services, consistent with the Section 504 regulation at 34 C.F.R. §104.35, subject to receipt of parent's consent to evaluate Student. Pursuant to Section 504, at 34 C.F.R. §104.35, the evaluation should be conducted by a group of persons who are knowledgeable about the Student, the meaning of the evaluation data, and placement options within the MISD. Prior to the conclusion of this evaluation, the MISD will provide the complainant notice of the MISD's system of procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

### Reporting Requirements

- A. By **May 15, 2017**, the MISD will provide OCR with documentation evidencing whether the District provided notice to the complainant and Student in accordance with Action Item 2.
- B. By **June 1, 2017**, the MISD will submit to OCR documentation evidencing whether the complainant provided consent to evaluate the Student and the scheduled date of the evaluation.
- C. If the Student is evaluated in accordance with Action Item 2, then within **15 days** of any evaluation conducted pursuant to Action Item 2, the MISD will submit to OCR documents that evidence the Section 504 evaluation and meeting, including documents that support the committee's evaluation decision. The documentation submitted shall include, at a minimum, meeting minutes and related documentation evidencing that the meeting occurred; a copy of the document setting forth the related aids and services the committee determined to be necessary to meet the Student's individual needs; and procedural safeguard notices provided to the complainant in accordance with Action Item 2. OCR will review the documentation to ensure that the MISD 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.

## **Action Item 3**

### Compensatory Services

If the Student is deemed to have a need for special education or related aids and services, the District shall convene a Section 504 committee meeting to determine whether compensatory or remedial education services are presently appropriate for the Student, based on Student's current levels of academic achievement, due to a loss of educational opportunity resulting from the failure to evaluate the Student during the 2015-2016 school year.

Where compensatory education services are deemed appropriate, the complainant will be notified (by mail, certified return receipt) of the compensatory education offered by the District.

#### Reporting Requirement

- A. Within **30 days** of any Section 504 the District will submit documentation to OCR demonstrating that it has fully complied with this Action Item. Such documentation will include:
  1. A list of the individuals who attended the meeting(s), including each individual's name, title, and role in the meeting.
  2. Documentation of the District's conclusions, an explanation of how the District's conclusions were reached, and a copy or summary of the information the District considered in reaching those conclusions.
  3. If applicable, evidence that the complainant was notified in writing of the compensatory education offered by the District.
- B. If applicable, by **September 1, 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 name(s) of the service provider(s).

#### Action Item 4

##### Record Keeping for Disciplinary Actions from Attendance Intervention

The MISD will revise its policies and procedures for record keeping of disciplinary actions (e.g, after-school detention, Saturday school) all students, including students with disabilities, incur resulting from absence or tardiness to school to ensure that such information is tracked and records for an academic school year are accurately recorded and maintained beyond the conclusion of the same academic school year.

#### Reporting Requirements

- A. By **September 1, 2017**, the MISD will submit to OCR for review and approval its revised policies and procedures for record keeping referenced in Action Item 4 above.
- B. Within **15 days** of receipt of written notification of OCR of its approval of the MISD's policies and procedures, the MISD will provide documentation to OCR evidencing that the policies and procedures developed in accordance with Action Item 4 have been fully implemented and that informative communications have been provided to all MISD staff notifying them of said policies and procedures.

**Action Item 5**

Removal of Disciplinary Action from Student's Record

The MISD will remove from the Student's record, if applicable, any disciplinary actions (e.g, after-school detention, Saturday school) resulting from absence or tardiness to school that triggered "attendance interventions" during the 2015-2016 school year.

Reporting Requirements

- A. By **May 15, 2017**, the MISD will submit to OCR the student's revised disciplinary record, and with notations of what disciplinary actions were removed to satisfy the second component of Action Item 5.

The MISD understands that OCR will not close the monitoring of this Agreement until OCR determines that it has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II.

The MISD understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements contained herein. Further, the MISD understands that during the monitoring of this Agreement, if necessary, OCR may visit the MISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the MISD has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II.

The MISD further 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 MISD written notice of the alleged breach and a minimum of 60 calendar days to cure the alleged breach.

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George Kazanas, Superintendent  
Midway Independent School District

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Date