

**RESOLUTION AGREEMENT**  
**Cherokee Independent School District**  
**Complaint Number 06-16-1841**

The U.S. Department of Education (Department), Office for Civil Rights (OCR), and the Cherokee Independent School District (CISD or District) enter into this agreement to resolve the allegation in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The CISD assures OCR that it will take the following actions, consistent with its obligation to comply 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, which prohibit discrimination on the basis of disability.

The CISD will ensure that any new facilities or part of a facility will be constructed in accordance with the 2010 ADA Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A (2010 Standards). New and altered facilities (or the identified new or altered part) will be readily accessible to and usable by individuals with disabilities.

Prior to the completion of OCR's investigation, the District requested to resolve the allegation under investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, the District agrees to take the following actions.

**Action Item 1**

1. By October 31, 2018, the District will comply with the 2010 Standards Section 1008.2.6 (ground surfaces) for the following outdoor play components at the CISD's Elementary School playground: Swings and see-saws (pea gravel meets impact attenuation standards with proper depth). Specifically, the District will install an appropriate ground surface at an appropriate depth under its playground swings and see-saws.

**Reporting Requirement – Action Item 1**

1. By December 15, 2018, the District will submit a report to OCR demonstrating that modifications to the ground surfaces for the CISD's Elementary School playground's swings and see-saws were completed in accordance with Action Item 1 and the 2010 Standards. This report shall include photographs, work orders, invoices and other such documentation sufficient to show compliance with Section 504 and Title II regarding the above-referenced provision of the Agreement.

**Action Item 2**

2. Effective beginning with the 2019-2020 school year, the District will implement a three-year plan of alterations to the CISD Elementary School's play experiences in accordance with the 2010 Standards Section 1008 (play areas), Section 1008.2.4 (accessible route), Section 1008.2.6 (ground surfaces), as follows:

- a. Year 1 – 2019-2020 school year: The District will provide an accessible route to the playground swings to comply with the 2010 Standards Section 1008.2.4 (accessible route); will provide a ground surface to comply with Section 1008.2.6 (ground surfaces); and will provide a swing that meets the requirements for play components, e.g., turning space, clear ground/floor space, clear knee space, and seat between 11 inches and 24 inches height, in accordance with Section 1008.4 (play components).
- b. Year 2 – 2020-2021 school year: The District will provide an accessible route to the playground see-saws to comply with the 2010 Standards Section 1008.2.4 (accessible route); will provide a ground surface to comply with 1008.2.6 (ground surfaces); and, provide a see-saw that meets the requirements for play components, e.g., turning space, clear ground/floor space, clear knee space, in accordance with Section 1008.4 (play components).
- c. Year 3 – 2021-2022 school year: The District will provide an accessible route to the play structure having elevated and ground-level play components to comply with the 2010 Standards Section 1008.2.4 (accessible route) and will provide a ground surface that complies with the 2010 Standards Section 1008.2.6 (ground surfaces).

### **Reporting Requirement – Action Item 2**

2. By September 30, 2019, and the same date in subsequent years 2020 and 2021, the District will submit a report to OCR demonstrating that the scheduled modifications referenced above were completed in accordance with the 2010 Standards. The report shall include photographs, work orders, invoices and other such documentation sufficient to show compliance with Section 504 and Title II regarding the above-referenced provision of the Agreement.

### **IMPLEMENTATION AND ENFORCEMENT OF THIS AGREEMENT**

The CISD understands that by signing the Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the recipient understands that during the monitoring of the Agreement, if necessary, OCR may visit the recipient, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the recipient has fulfilled the terms of the Agreement. Upon the recipient's satisfaction of the commitments made under the Agreement, OCR will close the case. The recipient understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR will give the recipient 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 CISD's representative below.

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Eldon Franko, Superintendent  
Cherokee Independent School District

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Date