

**Resolution Agreement**  
**Edgewood Independent School District**  
**OCR Complaint No. 06171010**

The Edgewood Independent School District (EISD) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office. By this Agreement, the EISD 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. This Agreement does not constitute an admission by the EISD that it discriminated or otherwise engaged in any wrongdoing. The EISD hereby voluntarily commits to the following:

**ACTION ITEM I**

By September 4, 2017, the EISD will review and revise its policies and procedures, including, but not limited to, the EISD's Special Education Identification, Evaluation, Eligibility (EHBAA (LEGAL)) policy to ensure the EISD's use of intervention strategies does not delay or deny the EISD's evaluation of a student in accordance with Section 504, and its implementing regulation, at 34 C.F.R. § 104.35. The EISD's revised policies should, at a minimum, remove any requirement that a student who is suspected of having a disability, and is believed to need regular or special education related aids and services because of said disability, be considered for "all support services available to all students" *before* he or she may be referred for an evaluation that would meet the requirements of Section 504.

**REPORTING REQUIREMENTS**

By September 4, 2017, the EISD will provide a draft of the amended policies and procedures to OCR for review and approval. **Within sixty (60) calendar days** of OCR's approval of the amended policies and procedures, the EISD will provide documentation to OCR demonstrating that it has formally adopted the revised policies; updated its printed publications and online publications, and electronically disseminated versions of the revised policies and procedures. The documentation submitted to OCR will include, at a minimum, the following: (1) printouts or a link to all online publications containing the revised policies and procedures; (2) evidence of the electronic dissemination of the revised policies and procedures; and (3) if not yet finalized, copies of the inserts for printed publications of the revised policies and procedures.

**ACTION ITEM II**

By September 4, 2017, the EISD will send the Complainant a letter via regular mail and certified mail, return receipt requested, informing the Complainant XX---phrase redacted---XX the EISD will conduct an evaluation of the Student pursuant to Section 504, at 34 C.F.R. § 104.35.

### **REPORTING REQUIREMENTS**

By September 4, 2017, the EISD will provide OCR with documentation, including copies of certified letters, demonstrating that it has timely completed Action Item II.

### **ACTION ITEM III**

XX---phrase redacted---XX the EISD will conduct the Section 504 evaluation **within thirty (30) calendar days** of XX---to end of sentence redacted---XX. The EISD will ensure that a committee of individuals knowledgeable about the Student, the Student's evaluation data, and placement options has been convened. Pursuant to the procedural requirements of Section 504, the committee will consider the Student's disability status and determine whether the Student is, because of disability, in need of regular or special education or related aids and services. If the committee determines the Student is a qualified handicapped person, the committee will make a determination of the related aids and services necessary to meet the individualized educational needs of the Student as adequately as the needs of nondisabled students at XX---phrase redacted---XX and document the services agreed upon by the committee. The committee will also consider whether the Student is in need of compensatory services related to aids and services the need for which arose during the time period between the Complainant's request for Section 504 meeting and XX---to end of sentence redacted---XX. If appropriate, the Section 504 committee will develop a plan to provide compensatory services to the Student, including when the EISD will provide compensatory services. Further, the EISD will provide the Complainant notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.

### **REPORTING REQUIREMENTS**

By September 4, 2017, the EISD will submit to OCR a narrative report documenting whether XX---phrase redacted---XX scheduled date of the evaluation.

If the XX---phrase redacted---XX, the EISD will:

- a. Submit to OCR documents supporting the group's decisions **within 2 weeks** of making its evaluation decisions with respect to the Student as indicated in Action Item III. The documentation submitted shall reflect (1) the participants in the meeting, (2) an explanation for decisions made, (3) the information considered, (4) a description of and schedule for providing any special education and/or related aids and services to the Student, and (5) a description of and schedule for providing any compensatory and/or remedial services to the Student. OCR will, prior to approving the EISD's decisions and plans for providing the proposed services, review the documentation to ensure that the EISD met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33-104.36, in making these determinations.

- b. In the event the EISD determines the Student is entitled to compensatory and/or remedial services the need for which arose during the time period between the Complainant's request for Section 504 meeting and XX---phase redacted---XX, the EISD will provide to OCR, no later than December 4, 2017, documentation of the dates, times, and locations that any compensatory and/or remedial services were provided. The documentation shall include a description of the services provided and the name(s) of the providers.

#### **ACTION ITEM IV**

By September 4, 2017, the EISD will complete an investigation, consistent with the EISD's FFH (Local) and FFI (Local) policies, into all allegations of harassment based on disability identified in reference to this complaint. Any information identified by previous investigatory actions taken by the EISD concerning the respective allegations can be utilized in addition to all new or additional information obtained through investigatory actions pursuant to this agreement in reaching investigatory determinations. As part of the investigation, the EISD will contact the Complainant to request a meeting with the Complainant and/or the Student and provide them with the opportunity to identify witnesses and any other information. The EISD will interview any witnesses the Complainant and/or the Student identify. If the EISD determines that the allegations are substantiated, in whole or in part, the EISD will take actions necessary to appropriately address the harassment. In addition, the EISD will take steps to prevent any recurrence of the harassment and remedy the effects of the harassment toward the Student XX---to end of paragraph redacted---XX.

#### **REPORTING REQUIREMENTS**

By September 4, 2017, the EISD will provide documentation to OCR indicating findings of the investigation required by Action Item IV.

#### **ACTION ITEM V**

By September 4, 2017, the EISD will provide written notice to the Student and his parents of the outcome of its investigation, identified by Action Item IV, and, if the EISD substantiates the harassment as a result of the investigation, the EISD will report the findings to the Student's Section 504 or ARD committee to address any potential need for counseling/academic therapy/medical service.

#### **REPORTING REQUIREMENTS**

By September 4, 2017, the EISD will provide OCR a copy of any correspondence required by an investigation under Board Policy and any notification submitted to the Student's Section 504 or ARD committee in connection with Action Item V.

### **ACTION ITEM VI**

By September 4, 2017, the EISD will provide information to OCR in connection with an upcoming training session regarding its obligation under Section 504 and Title II to provide a free appropriate public education (FAPE) to all qualified students with disabilities attending schools within its jurisdiction, including its duty to identify and evaluate any student within its jurisdiction who, because of disability, needs or is believed to need regular or special education or related aids and services; its duty to fully implement students' Section 504 accommodation plans and/or Individual Education Programs (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 accommodation plan or IEP must be modified. The training will also include in-depth instruction on what type of conduct constitutes disability-based harassment, including examples of disability-based harassment; the EISD's responsibility under Section 504 and Title II to address disability-based incidents of harassment about which it knows or reasonably should have known; and the EISD's procedures for investigating and responding to disability harassment, including identification of designated EISD staff member(s) who is/are available to answer questions or concerns regarding the EISD's policies, practices, regulations, or other issues related to disability-based harassment. The information submitted to OCR must include, but shall not be limited to, the credentials of the individual(s) selected to conduct the training, a proposed plan for the training session (e.g., length of the training session, topics to be considered, etc.), and a description of the training materials to be used by the trainer(s) and/or provided to attendees during the training session.

### **ACTION ITEM VII**

Within thirty (30) calendar days after OCR approves the training-based information described in Action Item VI, the EISD will conduct the training session. The training must be provided to all relevant personnel at the EMS, including, but not limited to, administrators, faculty, and counselors. The training will be conducted by individuals knowledgeable about the laws and issues pertaining to disability discrimination and retaliation.

### **REPORTING REQUIREMENTS**

**Within ten (10) calendar days** after conducting the training session in accordance with Action Item VII, the EISD will provide OCR with documentation demonstrating that the training session has been completed, including a sign-in sheet containing the signatures and titles of all attendees, along with any other information indicating that the training session was conducted in accordance with the requirements of this Agreement.

### **ACTION ITEM VIII**

By September 4, 2017, the EISD will provide information to OCR in connection with an upcoming training session regarding how to identify and prevent bullying and harassment and the EISD's obligation to address incidents of harassing conduct based on disability that are sufficiently severe, pervasive or persistent so as to create a hostile environment consistent with its harassment policy, and the regulatory requirements of Section 504 and Title II. The training will include the appropriate contact information for the staff member(s) designated as the official(s) to whom students and parents may report allegations of harassment and will warn that students found to have engaged in acts of harassment or other acts that create a hostile environment based on disability will be promptly disciplined in accordance with the EISD's Student Code of Conduct. The information submitted to OCR must include, but shall not be limited to, the credentials of the individual(s) selected to conduct the training, a proposed plan for the training session (e.g., length of the training session, topics to be considered, etc.), and a description of the training materials to be used by the trainer(s) and/or provided to attendees during the training session.

### **REPORTING REQUIREMENTS**

Within thirty (30) calendar days after OCR approves the training-based information described in Action Item VIII, the EISD will conduct the training session. The training must be provided to all relevant personnel at the EMS, including, but not limited to, administrators, faculty, and counselors. The training will be conducted by individuals knowledgeable about the laws and issues pertaining to bullying and disability discrimination.

The EISD understands OCR will not close the monitoring of this Agreement until OCR determines the EISD has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.35, and Title II, at 28 C.F.R. § 35.130, which were at issue in this case.

The EISD 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 EISD understands that during the monitoring of this Agreement, if necessary, OCR may visit the EISD, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the EISD has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.35, and Title II, at 28 C.F.R. § 35.130, which were at issue in this case.

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

/s/

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Mr. Andy Baker, Superintendent  
Edgewood Independent School District

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Date