



RESOLUTION AGREEMENT

Schertz-Cibolo-Universal City Independent School District
OCR Case Numbers: 06-17-1357 & 06-17-1934

A. GENERAL TERMS & PRINCIPLES:

OCR and the Schertz-Cibolo-Universal City Independent School District (District) 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 the District. The District 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 investigation, the District 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, the District agrees to take the following actions.

B. ACTION ITEMS & REPORTING REQUIREMENTS:

INDIVIDUAL REMEDIES:

Action Item #1:

- a. **By August 10, 2018**, the District will review the Student's discipline records for the 2016-2017 school year to determine whether the exclusionary discipline she received during that school year constituted a significant change in placement (i.e., a series of short-term exclusions totaling 10 or more school days that create a pattern of removal).
- b. If the District concludes that the exclusionary discipline that the Student received during the 2016-2017 school year constituted a significant change in placement, **by August 24, 2018**, the District will convene a meeting of a group of knowledgeable persons, as defined by Section 504, to conduct a manifestation determination to ascertain whether the exclusionary discipline was a result of the Student's behavior that, at that time, was a manifestation of the Student's identified disabilities, in accordance with the evaluation process required at 34 C.F.R. § 104.35. The District will provide the Student's parent(s)/guardian(s) with notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing.
- c. If the group of knowledgeable persons determines during the meeting that Action Item 1(b) requires that the Student's behavior for which she was disciplined during the 2016-2017 school year was, at that time, a manifestation of her disabilities,

- i. The group will determine whether the Student needs compensatory and/or remedial services as a result of any missed instruction. If the group determines that the Student needs compensatory and/or remedial services, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond **December 14, 2018**;
- ii. By **August 31, 2018**, the District will expunge the Student's discipline record of those infractions which were determined to be a manifestation of her disabilities; and
- iii. By **August 31, 2018**, the District will notify the Student's parent(s)/guardian(s) in writing (via certified mail, return receipt requested) of the results of the manifestation determination, including the plan for any compensatory and/or remedial services.

Reporting Requirements: Action Item #1:

- a. By **September 5, 2018**, the District will provide documentation to OCR regarding its determination pursuant to Action Item 1(a), including an explanation of its decision and supporting documentation.

If the District concludes that the exclusionary discipline that the Student received during the 2016-2017 school year constituted a significant change in placement and therefore holds the meeting that Action Item 1(b) requires, **by September 5, 2018**, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include:

- i. 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);
 - ii. Records of all information considered during the meeting;
 - iii. Minutes or notes from the meeting;
 - iv. An explanation of the decisions made during the meeting;
 - v. A description of and schedule for any compensatory and/or remedial services (if any) determined appropriate for the Student; and
 - vi. A copy of the written notification sent to the Student's parent(s)/guardian(s) concerning the date and time of the meeting, and the right of the parent(s)/guardian(s) to attend, and proof of transmission (e.g., email chain, certified mail and tracking receipt, etc.).
- b. If the group of knowledgeable persons determines during the meeting that Action Item 1(b) requires that the Student's behavior for which she was disciplined was, at that time, a manifestation of her disabilities, the District will submit to OCR
 - i. **By December 21, 2018**, if compensatory and/or remedial services are deemed necessary, 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 how it was provided; and the names, titles, and contact information (telephone numbers and email addresses) of the service providers;

- ii. By **September 5, 2018**, documentation showing that the Student's discipline record was expunged of those infractions that were deemed associated with the Student's disabilities pursuant to Action Item 2(c)(ii); and
- iii. By **September 5, 2018**, a copy of the notification that Action Item 2(c)(iii) requires.

Action Item #2:

By **August 20, 2018**, the District will develop and implement a documentation system (e.g., have teachers initial a log with date of implementation) to ensure that the related aids and services delineated in the Student's Section 504 plan or individual education program (IEP) are communicated to the Student's teachers and are implemented as prescribed.

Reporting Requirements: Action Item #2:

By **September 21, 2018**, the District will submit for OCR's review a report evidencing that it developed and implemented the documentation system referenced in this Action Item. This report should include, at a minimum:

- a. A narrative explaining the documentation system and how it is kept;
- b. A list of the Student's teachers during the time period for which the District is providing documentation;
- c. The documentation kept in accordance with the system demonstrating that the related aids and services delineated in the Student's 504 plan or IEP were communicated to her teachers and implemented as prescribed; and
- d. A copy of the Student's Section 504 plan(s) or IEP(s) for which implementation was tracked via the documentation system.

TRAINING & PROFESSIONAL DEVELOPMENT:

Action Item #3:

Within thirty (30) calendar days after the District receives written notification of OCR's approval of the training(s) described in this Action Item, the District will conduct training(s) regarding its obligation under Section 504 and Title II to provide a free appropriate public education (FAPE) to all qualified students with disabilities attending its schools and Section 504's and Title II's prohibitions of disability discrimination and retaliation. The training(s) must be provided to all relevant personnel at Wiederstein Elementary School (WES), including, but not limited to, principals, special education coordinators, Section 504/Title II coordinators, teachers, teacher's aides, counselors, and relevant administrators who work with WES. The training(s) will be conducted by an individual or individuals knowledgeable about laws and issues pertaining to disability discrimination and retaliation, including the issues below, and must address, at a minimum, the following:

- i. Section 504's and Title II's prohibition of disability discrimination;
- ii. The District's obligation to reevaluate a student's need for regular or special education and related aids or services when the Student has a significant change in placement, including an explanation of when exclusionary discipline rises to the level of a significant change in placement;
- iii. The District's obligation to abide by the requirements of Section 504 and Title II, as they relate to the provision of a FAPE, including the obligation of staff members to fully implement any IEP or Section 504 plan that has been developed for a qualified student with a disability; and
- iv. Instruction on what type of conduct constitutes retaliation under Section 504 and Title II.

Reporting Requirements: Action Item #3

- a. By **July 19, 2018**, the District will provide OCR, for OCR's review and approval, the proposed training materials to be used and distributed during the training(s) described in this Action Item, including all speaker's notes, handouts, and PowerPoints (or other presentations), and the name, title, contact information, and qualifications of the trainer(s).
- b. **Within forty-five (45) calendar days after the District receives written notification of OCR's approval of the training(s) described in this Action Item**, the District will provide to OCR documentation demonstrating that relevant personnel at WES have received that training(s), including the date(s) of the training(s); the names, titles, contact information, and qualifications of the trainer(s); a copy of all materials used and distributed during the training(s); and a sign-in sheet with the names and titles of individuals who attended the training(s).

C. EXECUTION:

The District 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, 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 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.

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 will become effective immediately upon the signature of the District's

representative below.

Superintendent or Designee's Name

Superintendent or Designee's Signature

Date