



## RESOLUTION AGREEMENT

Vermilion Parish School Board  
OCR Case Number: 06-17-1396

### A. GENERAL TERMS & PRINCIPLES:

OCR and the Vermilion Parish School Board (VPSB) 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 VPSB. The VPSB 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 VPSB agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to resolve the issues of this investigation, the VPSB agrees to take the following actions.

### B. ACTION ITEMS & REPORTING REQUIREMENTS:

#### *POLICIES & PROCEDURES*

##### **Action Item 1**

- a. By **July 2, 2018**, the VPSB shall review and if necessary revise its appropriate policies and procedures to indicate Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibit disability-based discrimination and harassment and provide complaint procedures, including, but not limited to, reporting incidents of alleged disability-based discrimination and harassment, investigation of complaints, interviewing of witnesses, and resolution of complaints. The VPSB's procedures must include the following elements:
  - i. notice of the grievance procedures, including where complaints may be filed;
  - ii. application of the grievance procedures to complaints filed by students or on their behalf alleging discrimination or harassment carried out by employees, other students, or third parties;
  - iii. provisions for adequate, reliable, and impartial investigation of written and oral complaints, including the opportunity for both the complainant and alleged perpetrator to present witnesses and evidence;
  - iv. designated and reasonably prompt time frames for the major stages of the complaint process;
  - v. notice to the complainant and alleged perpetrator of the outcome of the complaint; and

- vi. assurance that the VPSB will take steps to prevent recurrence of any discrimination or harassment and remedy discriminatory effects on the complainant and others, if appropriate.
- b. **Within thirty (30) calendar days of receipt of written notification from OCR of its approval of the revised policies and procedures** as required by this Action Item, the VPSB will adopt and implement the OCR-approved policies (Approved Policies) in its electronic and printed materials. For printed materials, inserts may be used pending reprinting. The VPSB will provide all administrators, faculty, staff, and parents/guardians with written notice regarding how to obtain a copy of the Approved Policies. The VPSB, at a minimum, will make this notification through the VPSB's website, as well as any additional means of notification the VPSB deems effective to ensure that the information is widely disseminated.

#### **Reporting Requirements: Action Item 1**

- a. By **July 2, 2018**, the VPSB will submit to OCR, for its review and approval, a copy of the revised policies and procedures as required by this Action Item. If the VPSB determines that revision of policies and procedures is not necessary, the VPSB will indicate this determination to OCR and provide the bases for this determination.
- b. **Within thirty-five (35) calendar days of receipt of written notification from OCR of its approval of the revised policies and procedures** as required by this Action Item, the VPSB will provide to OCR the following: (1) a link or links to the VPSB's website page(s) showing the location of the Approved Policies; and (2) a copy of all policy manuals and handbooks that include the Approved Policies.

#### ***TRAINING & PROFESSIONAL DEVELOPMENT:***

##### **Action Item 2**

**Within thirty (30) calendar days after the VPSB receives written notification of OCR's approval of the training(s) described in this Action Item**, the VPSB will conduct training regarding its obligation under Section 504 and Title II to provide a free appropriate public education to all qualified students with disabilities attending its schools and Section 504's and Title II's prohibitions of disability discrimination, including harassment, and retaliation. The training(s) must be provided to all relevant personnel at Herod Elementary School (HES)—including, but not limited to, principals, special education coordinators, Section 504/Title II coordinators, teachers, teacher's aides, and counselors—and any relevant district-level administrators who work with HES. 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. The VPSB's obligation to identify and evaluate all students within its jurisdiction who, because of disability, need or are believed to need regular or special education or related aids and services;
- ii. The VPSB's obligation to re-evaluate a student's need for regular or special education and related aids or services when the Student has a Section 504 plan and the VPSB has notice that, because of alleged harassment of the student, the student's educational needs may have changed;
- iii. The VPSB's policies and procedures for carrying out its responsibilities to evaluate a student pursuant to Section 504;
- iv. The VPSB's obligation to abide by the requirements of Section 504 and Title II, as it relates to the provision of an appropriate education, including the obligation of staff members to fully implement any individualized education program or Section 504 plan that has been developed for a qualified student with a disability;
- v. What type of conduct constitutes disability-based harassment, including addressing examples of disability-based harassment, and a discussion about the negative impact that such harassment has on the educational environment;
- vi. The VPSB's responsibility under Section 504 and Title II to address disability-based incidents of harassment about which it knows or reasonably should have known;
- vii. Identification of designated VPSB staff member(s) who is/are available to answer questions or concerns regarding the VPSB's policies, practices, regulations, or other issues related to disability-based harassment;
- viii. Instruction on what type of conduct constitutes retaliation under Section 504 and Title II.

### **Reporting Requirements: Action Item 2**

- a. **Within thirty (30) calendar days of receipt of written notification from OCR of its approval of the revised policies and procedures** as required by Action Item 1, the VPSB will provide OCR, for OCR's review and approval, the proposed training materials to be used and distributed during the training 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 thirty-five (35) calendar days after the VSPB receives written notification of OCR's approval of the training described in this Action Item**, the VPSB will provide to OCR documentation demonstrating that relevant personnel have received that training, including the date(s) of the training; the names, titles, contact information, and qualifications of the trainer(s); a copy of all materials used and distributed during the training; and a sign-in sheet with the names and titles of individuals who attended the training.

### **Action Item 3**

**Within thirty (30) calendar days after the VPSB receives written notification of OCR's approval of the training described in this Action Item**, the VPSB will provide

training, by a qualified individual, to all staff at HES who are directly involved in processing, investigating, and/or resolving complainants or other reports of disability harassment; any counselors, teachers, or other HES personnel who are likely to receive reports of disability harassment; and any relevant district-level administrators who work with HES. The training should include instruction regarding:

- i. What type of conduct constitutes disability-based harassment, including addressing examples of disability-based harassment, and a discussion about the negative impact that such harassment has on the educational environment;
- ii. The VPSB's responsibility under Section 504 and Title II to address disability-based incidents of harassment about which it knows or reasonably should have known;
- iii. Identification of designated VPSB staff member(s) who is/are available to answer questions or concerns regarding the VPSB's policies, practices, regulations, or other issues related to disability-based harassment;
- iv. The VPSB's responsibility to take immediate and appropriate action to investigate incidents of disability harassment under the Approved Policies;
- v. How to conduct disability harassment investigations in an adequate, reliable, and impartial manner, including the appropriate standards to apply in such investigations, and an outline of the appropriate disciplinary measures for violations of the VPSB's anti-harassment policy;
- vi. If an investigation reveals that discriminatory harassment has occurred, the VPSB's responsibility to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring; and
- vii. The duty of the VPSB to respond to incidents of disability harassment even if the misconduct is also covered by an anti-bullying policy, and regardless of whether the student has complained, asked the school to take action, or identified the harassment as a form of discrimination.

### **Reporting Requirements: Action Item 3**

- a. **Within thirty (30) calendar days of receipt of written notification from OCR of its approval of the revised policies and procedures** as required by Action Item 1, the VPSB will provide OCR, for OCR's review and approval, the proposed training materials to be used and distributed during the training 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 thirty-five (35) calendar days after the VSPB receives written notification of OCR's approval of the training described in this Action Item**, the VPSB will provide to OCR documentation demonstrating that relevant personnel have received that training, including the date(s) of the training; the names, titles, contact information, and qualifications of the trainer(s); a copy of all materials used and distributed during the training; and a sign-in sheet with the names and titles of individuals who attended the training.

#### **Action Item 4**

**Within thirty (30) calendar days after the VPSB receives written notification of OCR's approval of the training described in this Action Item,** the VPSB will provide training to all HES students addressing harassment, including but not limited to, disability-based harassment, in order to promote respect and tolerance for others and to avert the establishment of a hostile environment based on disability for students enrolled in the VPSB. This training may be provided either as an independent assembly, class presentation, or as part of the HES's current curriculum/enrichment programs or lessons (e.g., Student Orientation). The training will include:

- i. A reminder of the VPSB's commitment to having a school environment free from all harassment and an explanation regarding what students should do if they believe they or other students are being harassed;
- ii. A review of the VPSB's harassment policies and procedures, including an explanation of what disability-based harassment is, as well as disciplinary sanctions related to findings of violations of its harassment policies and the policy prohibiting retaliation;
- iii. The name and contact information of a VPSB employee, such as a counselor, who the students may contact if they wish to confidentially discuss any concerns they have; and
- iv. Distribution of written materials during the program that contain the information discussed.

#### **Reporting Requirements: Action Item 4**

- a. **Within thirty (30) calendar days of receipt of written notification from OCR of its approval of the revised policies and procedures** as required by Action Item 1, the VPSB will provide OCR, for OCR's review and approval, the proposed training materials to be used and distributed during the training 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 thirty-five (35) calendar days after the VSPB receives written notification of OCR's approval of the training described in this Action Item,** the VPSB will provide to OCR documentation demonstrating that all HES students have received that training, including the date(s) of the training; the names, titles, contact information, and qualifications of the trainer(s); a copy of all materials used and distributed during the training; and confirmation that all students attended the training (with reasonable exceptions made for absent students, etc.).

*INDIVIDUAL REMEDIES:*

**Action Item 5**

By **July 2, 2018**, the VPSB 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 existing Section 504 plan are communicated to the Student's teachers and are implemented as prescribed.

**Reporting Requirements: Action Item 5**

By **September 7, 2018**, the VPSB 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:

- i. A narrative explaining the documentation system and how it is kept; and
- ii. The documentation kept in accordance with the system demonstrating that the related aids and services delineated in the Student's 504 plan were communicated to his teachers and implemented as prescribed.

**Action Item 6**

By **May 31, 2018**, the VPSB will convene a meeting of a group of knowledgeable persons, as defined by Section 504, to consider

- i. whether the Student needs compensatory and/or remedial services, such as tutoring or counseling, as a result of any failure on the part of the VPSB to timely evaluate the Student pursuant to Section 504 or provide appropriate regular and/or special education or related services to the Student during the 2016-2017 school year. 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**. The VPSB will provide the Student's parent(s)/guardian(s) notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing; and
- ii. whether, and to what extent, as a result of the effects of any harassment, (1) the Student's educational needs have changed, (2) harassment impacted the Student's receipt of Section 504 services, and (3) additional or different services, if any, are needed.

**Reporting Requirements: Action Item 6**

- a. By **June 15, 2018**, the VPSB 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 compensatory and/or remedial services are deemed necessary, by **December 21, 2018**, the VPSB 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.

#### **Action Item 7**

- a. **Within thirty (30) calendar days of completion of the training required by Action Item 3**, the VPSB will complete an investigation into any allegations of disability-based harassment that the complainant reported during the 2016-2017 school year. As part of the investigation, if the complainant makes herself and the Student available, the VPSB will meet with and interview the Student and the complainant and provide them with the opportunity to identify alleged witnesses and any other information. The VPSB will interview any alleged witnesses they identify. If the VPSB determines that the allegations are substantiated, in whole or in part, the VPSB will take actions necessary to appropriately address the disability-based harassment. In addition, the VPSB will take steps to prevent any recurrence of the harassment and offer to remedy the effects of the disability-based harassment toward the Student.
- b. **Within five (5) calendar days of receipt of completion of the investigation** as required by this Action Item, the VPSB will provide written notice to the complainant of the outcome of its investigation, by certified mail return receipt requested, and, if the VPSB substantiates the harassment as a result of the investigation, the VPSB will issue, by certified mail return receipt requested, a written offer to the Student to provide counseling/academic/therapy services for the assessment and/or treatment of any psychological harm or any of the lingering effects from the harassment. The VPSB's letter will inform the Student and the complainant that they have ten (10) calendar days from the date of the letter to accept the offer by providing written notice of their acceptance.

**Reporting Requirements: Action Item 7**

- a. **Within thirty-five (35) calendar days of completion of the training required by Action Item 3**, the VPSB will provide documentation (e.g., witness statements, investigatory notes, and requests to interview the complainant/Student) to OCR indicating findings of the investigation required by Action Item 7(a).
- b. **Within ten (10) calendar days of receipt of completion of the investigation** as required by this Action Item, the VPSB will provide OCR with a copy of the letter to the complainant required by Action Item 7(b).

**C. EXECUTION:**

The VPSB 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 VPSB understands that, during the monitoring of this Agreement, if necessary, OCR may visit the VPSB, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the VPSB 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 this case.

The VPSB 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 VPSB 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 VPSB's representative below.

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Superintendent or Designee's Name

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Superintendent or Designee's Signature

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Date