

## **RESOLUTION AGREEMENT**

### **Cypress-Fairbanks Independent School District OCR Complaint No. 06-17-1451**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Cypress-Fairbanks Independent School District (CFISD or District) enter into this resolution agreement (Agreement) to resolve the allegations in the above-referenced complaint. The CFISD assures 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. Section 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. Sections 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.

Entering into the Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the CFISD.

### **POLICIES AND PROCEDURES**

#### **Action Item 1**

The CFISD shall review and, if necessary, revise its policies, procedures, and practices with respect to completion of evaluations and provision of a free appropriate public education (FAPE), pursuant to Section 504 and Title II. Policies, procedures, and practices reviewed and revised shall include but not necessarily be limited to those contained within the CFISD Student Handbook and those available on CFISD website (e.g., Section 504 Operational Guidelines). The CFISD's review and revision shall ensure that the CFISD's policies, procedures, and practices, at a minimum, meet the following:

- (a) Identify and provide contact information for the Section 504 and Title II coordinator(s) for the CFISD, including campus-specific coordinator(s) if the CFISD designates campus-specific coordinator(s); and
- (b) Clarify that the CFISD shall conduct an evaluation in accordance with all requirements of 34 C.F.R. § 104.35 of any student who, because of a disability, needs or is believed to need special education or related services.

#### **Reporting Requirement**

By **September 3, 2011**, the CFISD will submit to OCR a copy of all proposed policy revisions for OCR's review and approval. The CFISD will additionally provide OCR an explanation and/or supporting bases concerning the CFISD's review of its policies, procedures, and practices. If the CFISD determines that current District policies comply with the requirements of this Agreement,

the District shall provide OCR with information and documentation supporting that determination, including information relevant to the District’s modifications to relevant policies, procedures, and practices since 2017. **Within 45 calendar days** of OCR’s approval, revised policies, if applicable, shall be published and the CFISD shall provide OCR with appropriate evidence demonstrating that the policies have been published.

## **TRAINING AND PROFESSIONAL DEVELOPMENT**

### **Action Item 2**

By **September 3, 2021**, the CFISD will provide training regarding its obligation under Section 504 and Title II to provide a free appropriate public education (FAPE) to all qualified students with disabilities residing within its jurisdiction. The training should be provided to all relevant personnel, including, but not limited to administrators, faculty, nurses, counselors, Section 504 Coordinators, and Title II Coordinators at the XXXX XXXX XXXX (XXXX). The training will be conducted by an individual who is knowledgeable about the laws and issues pertaining to disability discrimination and the evaluation of students who are or are believed to be disabled.<sup>1</sup> The training shall address, at a minimum:

- (a) The identification and evaluation of all students, who because of disability, need or are believed to need special education or related aids and services;
- (b) The CFISD’s policies and procedures for carrying out its responsibilities under Section 504 and Title II to provide a free and appropriate public education (FAPE) to each qualified disabled person who is within the CFISD’s jurisdiction, regardless of the nature or severity of the person’s disability;
- (c) The CFISD’s policies and procedures for carrying out its responsibilities to evaluate and re-evaluate students pursuant to Section 504, at 34 C.F.R. § 104.35;
- (d) The CFISD staff members’ obligation to fully implement any Section 504 Plan that has been developed for a qualified student with a disability;
- (e) The identification of and contact information for the Section 504 and Title II coordinators for the CFISD, including campus-specific coordinators;
- (c) Clarification of the process for staff members, including campus nurses, to share information with District and/or campus Section 504 Coordinators concerning possible or suspected disabilities of students;
- (d) Clarification that all staff members are obligated to apprise District Section 504 Coordinators, campus Section 504 Coordinators, and/or other appropriate staff members of potential need for completing a Section 504 evaluation for students;
- (e) Clarification of the purpose of Section 504 evaluations and Section 504 plans for students; and

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<sup>1</sup> The appropriate individual may be an employee, contractor, or other representative of the CFISD, or an outside individual or entity.

- (f) Clarification that the CFISD shall conduct an evaluation in accordance with all requirements of 34 C.F.R. § 104.35 of any student who, because of a disability, needs or is believed to need special education or related services, and that the CFISD will not:
- (i) Require that each tier of a multi-tiered model of intervention must be implemented before conducting an evaluation, regardless of whether or not a disability is suspected and there are needs based on the disability;
  - (ii) delay or deny timely evaluation of a student suspected of having a disability in order to implement interventions; or
  - (iii) categorically require that data from an intervention strategy must be collected and incorporated as a necessary element of an evaluation.<sup>2</sup>

#### Reporting Requirement

By **September 10, 2021**, the CFISD will provide documentation to OCR evidencing that the training required by Action Item 2 has been completed, including the identity of the individual conducting the training and the individual's qualifications, along with a copy of the materials or a summary of the material covered in such training and sign-in sheets or other documentation showing who attended the training. The copy of materials or summary of the material covered should sufficiently demonstrate that the items detailed within subpart (a) through (i) of Action Item 2 were addressed within the training.

### **INDIVIDUAL STUDENT**

#### **Action Item 3**

By **June 11, 2021**, the CFISD will convene a group of knowledgeable persons to determine whether the Student needs compensatory and/or remedial services as a result of the CFISD's failure to conduct a Section 504 evaluation for the Student between January 2015 and May 2017. If compensatory and/or remedial services are determined necessary, within one week of its determination, the group will develop a plan for providing such services, including a timeline for completion. The CFISD will provide the Student's parent(s)/guardian(s) notice of the procedural safeguards including the right to challenge the group's determinations through an impartial due process hearing.

#### Reporting Requirement

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<sup>2</sup> A system of interventions may be used to help the CFISD identify and address learning and behavioral challenges in students at its earliest opportunity to improve student achievement and reduce behavioral problems whether or not they are related to a disability. However, a recipient's implementation of an intervention strategy does not absolve the recipient of its obligation to conduct an appropriate and timely evaluation of any student whom the recipient believes could have a need for special education or related services. Implementing an intervention strategy and evaluating for a disability could be implemented at the same time, as parallel responses in an attempt to identify and address a student's needs. Interventions could be implemented while a student is being evaluated, and information gathered during the intervention process could be useful in an evaluation process.

By **June 18, 2021**, the CFISD will submit to OCR documents supporting the group’s decisions. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, a description of and schedule for providing any compensatory and/or remedial services to the Student, and documentation demonstrating that notice of procedural safeguards was provided to the Student’s parent(s)/guardian(s).

The CFISD understands that by signing this Agreement, it agrees to provide the foregoing information and other data in a timely manner in accordance with the reporting requirements of this Agreement. Further, the CFISD understands that during the monitoring of this Agreement, if necessary, OCR may visit the CFISD, interview staff and students, and request such additional reports or data, as are necessary for OCR to determine whether the CFISD has fulfilled the terms of this Agreement. Upon the CFISD’s satisfaction of the commitments made under this Agreement, OCR will close the case.

The CFISD understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR shall give the CFISD 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 CFISD’s representative below.

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**Dr. Mark Henry**  
**Superintendent**  
**Cypress-Fairbanks Independent School District**

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**Date**