

RESOLUTION AGREEMENT

Eagle Mountain-Saginaw Independent School District OCR Complaint No. 06-17-1655

The U.S. Department of Education, Office for Civil Rights (OCR) and the Eagle Mountain-Saginaw Independent School District (EMSISD or District) enter into this agreement to resolve the allegations in the above-referenced complaint. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District 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.

Prior to the completion of OCR's investigation, the District 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 District agrees to take the following actions.

TRAINING AND PROFESSIONAL DEVELOPMENT

Action Item 1

By _____, the EMSISD 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, counselors, and Title 504 Coordinators, and Title II Coordinators at XXX XXXX XXXX XXXX (XXXX) and 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.¹ 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 EMSISD'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 EMSISD's jurisdiction, regardless of the nature or severity of the person's disability;
- (c) The EMSISD'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;

¹ The appropriate individual may be an employee, contractors, or other representatives of the EMSISD, or an outside individual or entity.

- (d) The EMSISD staff members' obligation to fully implement any Section 504 Plan that has been developed for a qualified student with a disability;
- (e) The potential effect of bullying or harassment on any basis of a student with a disability who is receiving FAPE services, including that such bullying or harassment can result in denial of FAPE that must be remedied under Section 504, that the EMSISD has an ongoing obligation to ensure that a qualified student with a disability who receives FAPE services continues to receive FAPE, and the potential need for reevaluation of a student if it is suspected that the student's individual needs have changed pursuant to bullying or harassment; and
- (f) The EMSISD's policies and procedures for carrying out its obligation to provide procedural safeguards pursuant to Section 504, at 34 C.F.R. § 104.36.

Reporting Requirement

By _____, the EMSISD will provide documentation to OCR evidencing that the training required by Action Item 1 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.

INDIVIDUAL STUDENT

Action Item 2

By _____, the EMSISD will convene a group of knowledgeable persons, including the Student's parent(s)/guardian(s), to determine whether as a result of the effects of bullying and/or harassment, the Student's needs have changed such that the Student is no longer receiving a FAPE. If the group of knowledgeable persons determines that the Student's needs have changed, the group will determine additional or different services, accommodations, and/or related aids which are needed by the Student. The group will also ensure that needed changes or additions are implemented promptly and that the determination of what changes or additions are needed avoids putting the onus on the Student to avoid or handle bullying or harassment. The group will also determine whether the Student needs compensatory and/or remedial services as a result of the EMSISD's *alleged* failure to provide special education or related aids and services to the Student during the XXXX school year, and any resulting educational loss suffered by the Student. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services, including a timeline for completion. The EMSISD 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

Within 14 days (by _____) of making its decisions with respect to the Student as indicated in Action Item 2, the EMSISD 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, and 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 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 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 the regulations implementing Section 504, at 34 C.F.R. §§ 104.33 and 104.35; and Title II, at 28 C.F.R. § 35.130. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

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.

Dr. Jim F. Chadwell
Superintendent
Eagle Mountain-Saginaw Independent School District

Date