

RESOLUTION AGREEMENT

Cypress-Fairbanks Independent School District OCR Complaint No. 06-18-1475

The U.S. Department of Education, Office for Civil Rights (OCR) and the Cypress-Fairbanks Independent School District (CFISD 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.

This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District, and the District denies non-compliance or wrongdoing.

TRAINING AND PROFESSIONAL DEVELOPMENT

Action Item 1

By **October 31, 2018**, 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 XXXX XXXX XXXX XXXX (XXXX) administrators, XXXX faculty, XXXX counselors, and XXXX Title 504 Coordinators, and Title II Coordinators. 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 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;

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

- (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; and
- (e) The CFISD’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 **November 14, 2018**, the CFISD 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.

Action Item 2

By **October 31, 2018**, the CFISD will provide training, by a qualified individual², to all administrators, faculty, and staff at the XXXX, regarding prohibitions against retaliation by the CFISD against individuals for opposing an act or policy that is unlawful under any of the laws that OCR enforces or otherwise asserting rights protected by the laws that OCR enforces, including, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990. The training will include examples of adverse actions, including but not limited to actions that relate to the disciplinary process.

Reporting Requirement

By **November 14, 2018**, 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.

INDIVIDUAL STUDENT

Action Item 3

By **October 31, 2018**, if the Student attends school within the District, the CFISD will provide notice to the Student’s parent(s)/guardian(s) that the District will conduct an evaluation of the Student to identify the Student’s need for special education or related aids and services, consistent with Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§

² The appropriate individual may be an employee, contractors, or other representatives of the CFISD, or an outside individual or entity.

104.33 and 104.35, and 28 C.F.R. § 35.130, respectively. After evaluation, if the Student qualified pursuant to Section 504 and Title II, the District shall also determine the Student's need for compensatory and/or remedial services, if any, as a result of the District's *alleged* failure to timely and/or properly evaluate the Student consistent with the requirements of Title II and Section 504, and as a result of any missed class time by the Student due to retaliation *alleged* pursuant to the complaint. 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.

If the Student no longer attends school within the CFISD, the CFISD will send a letter to the Student's parent(s)/guardian(s), indicating that if the Student ever returns or reenrolls for school within the CFISD, within thirty (30) calendar days of reenrollment, the CFISD will:

- (a) Provide notice to the Student's parent(s)/guardian(s) that the District will conduct an evaluation of the Student to identify the Student's need for special education or related aids and services, consistent with Section 504 and Title II and their implementing regulations, at 34 C.F.R. §§ 104.33 and 104.35, and 28 C.F.R. § 35.130, respectively;
- (b) Determine the Student's need for compensatory and/or remedial services as a result of the District's alleged failure to timely and/or properly evaluate the Student consistent with the requirements of Title II and Section 504, and as a result of any missed class time by the Student due to retaliation alleged pursuant to the complaint; and
- (c) 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(s)

- (a) By **November 14, 2018**, the CFISD will provide documentation to OCR evidencing that the District provided notice to the Student's parent(s)/guardian(s) in accordance with Action Item 3. If the Student no longer attends school within the CFISD, the CFISD will provide OCR with a copy of the letter indicated within Action Item 3, documentation demonstrating that the letter was sent, and documentation demonstrating that the Student no longer attends school within the CFISD.
- (b) **Within 14 calendar days** of any evaluation of the Student in accordance with Action Item 3, the District will submit to OCR documents reflecting the evaluation and meeting, including documents that support the committee's evaluation decision. The documentation submitted shall include, at a minimum:
 - i. All documentation and information considered by the District as part of the evaluation;
 - ii. Meeting minutes and related documentation;
 - iii. The participants in the meeting/evaluation;
 - iv. An explanation of the decision made regarding the Student's need for compensatory and/or remedial services and information considered for the decision;

- v. A description of and schedule for providing compensatory and/or remedial services (if any) to the Student; and
- vi. Documentation demonstrating that notice of procedural safeguards was provided to the Student's parent(s)/guardian(s).

As indicated above, this agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District, and the District denies non-compliance or wrongdoing. 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. §§ 104.21-104.23; and Title II, at 28 C.F.R. §§ 35.149-35.151. 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. Mark Henry
Superintendent
Cypress-Fairbanks Independent School District

Date