



RESOLUTION AGREEMENT

Union Public School District
OCR Case Number: 06-19-1138

A. GENERAL TERMS & PRINCIPLES:

The U.S. Department of Education's Office for Civil Rights (OCR) and the Union Public School District (District) enter into this agreement (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. § 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 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.

B. ACTION ITEMS & REPORTING REQUIREMENTS:

POLICIES & PROCEDURES

Action Item 1

- a. By **June 28, 2019**, the District shall review and if necessary revise its appropriate policies and procedures ensure that it has grievance procedures that comply with the requirements of Section 504 and Title II.
- b. **Within thirty (30) calendar days of receipt of written notification of OCR's approval of the revised policies and procedures** described in this Action Item, the District will adopt and implement the OCR-approved policies and procedures (Approved Policies) in its electronic and printed materials. For printed materials, inserts may be used pending reprinting. The District will provide all administrators, faculty, staff, and parents/guardians with written notice regarding how to obtain a copy of the Approved Policies. The District, at a minimum, will make this notification through the District's website, as well as any additional means of notification the District deems effective to ensure that the information is widely disseminated.

Reporting Requirements: Action Item 1

- a. By **June 28, 2019**, the District will submit to OCR, for its review and approval, a copy of the revised policies and procedures described in this Action Item. If the District determines that revision of policies and procedures is not necessary, the District 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 of OCR’s approval of the revised policies and procedures** described in this Action Item, the District will provide to OCR the following: (1) a link or links to the District’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 District receives written notification of OCR’s approval of the training(s) described in this Action Item, the District will conduct training regarding (1) 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 (2) Section 504’s and Title II’s prohibitions of disability discrimination, including harassment. The training(s) must be provided to all personnel with responsibilities relevant to Section 504 and Title II at Union Middle School (UMS)—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 UMS. The training(s) will be conducted by an individual or individuals knowledgeable about the relevant requirements of Section 504 and Title II, and must address, at a minimum, the following:

- a. The District’s obligation to fully implement any individualized education program or Section 504 plan that has been developed for a qualified student with a disability;
- b. 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;
- c. The District’s responsibility under Section 504 and Title II to address disability-based harassment about which it knows or reasonably should have known; and
- d. Identification of designated District staff member(s) who is/are available to answer questions or concerns regarding the District’s policies, practices, regulations, or other issues related to disability-based harassment.

Reporting Requirements: Action Item 2

- a. By **August 30, 2019**, the District 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 District receives written notification of OCR’s approval of the training described in this Action Item**, the District will provide 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 required to attend the training.

Action Item 3

Within thirty (30) calendar days after the District receives written notification of OCR's approval of the training described in this Action Item, the District will provide training, by a qualified individual, to all staff who are directly involved in processing, investigating, and/or resolving complainants or other reports of disability-based harassment for UMS. The training should include instruction regarding:

- a. The District's responsibility to take immediate and appropriate action to investigate incidents of disability-based harassment under the Approved Policies;
- b. How to conduct investigations of allegations of disability-based harassment in an adequate, reliable, and impartial manner, including the appropriate standards to apply in such investigations;
- c. If an investigation reveals that discriminatory harassment has occurred, the District'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
- d. The District's duty to respond to incidents of disability-based harassment even if the misconduct is also covered by an anti-bullying policy and regardless of whether anyone has complained, asked the District or school to take action, or explicitly identified the harassment as a form of discrimination.

Reporting Requirements: Action Item 3

- a. **Within thirty (30) calendar days of receipt of written notification of OCR's approval of the revised policies and procedures** required by Action Item 1, the District 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 District receives written notification of OCR's approval of the training described in this Action Item**, the District will provide 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 required to attend the training.

INDIVIDUAL REMEDIES:

Action Item 4

By **May 3, 2019**, the District will develop and implement a documentation system (e.g., have teachers initial a log with date of implementation) to ensure that the aids and services delineated in the Student's Section 504 plan or individual education program (IEP) are communicated to the Student's teachers and implemented as prescribed

Reporting Requirements: Action Item 4

By **May 31, 2019**, 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 completed documentation kept in accordance with the documentation system demonstrating that the aids and services delineated in the Student's 504 plan or IEP were communicated to his teachers and implemented as prescribed; and
- d. A copy of the Student's Section 504 plan(s) or IEP(s) for which the District tracked implementation via the documentation system.

Action Item 5

By **May 24, 2019**, the District will convene a meeting of a group of knowledgeable persons, as defined by Section 504, to consider 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 District to provide appropriate regular and/or special education or related services to the Student during the 2018-2019 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 13, 2019**. The District 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.

Reporting Requirements: Action Item 5

- a. By **May 31, 2019**, the District will submit to OCR documents supporting the group's decision during the meeting that this Action Item requires. The documentation submitted shall include:
 - i. A list of all participants in the meeting (including name, title, role in the meeting, and whether 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 determined appropriate for the Student; and
 - vi. A copy of the written notification sent to the Student's parent(s)/guardian(s) concerning the meeting 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 20, 2019**, 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 of the service providers.

Action Item 6

- a. By **May 31, 2019**, the District will complete an investigation into any allegations of disability-based harassment that the complainant reported during the 2018-2019 school year. As part of the investigation, if the complainant makes herself and the Student available, the District will meet with and interview the Student and the complainant and provide them with the opportunity to identify alleged witnesses and provide any other relevant information. The District will interview any alleged witnesses they identify. If the District determines that the allegations are substantiated, in whole or in part, the District will take actions necessary to appropriately remedy and prevent recurrence of the disability-based harassment.
- b. **Within five (5) calendar days of receipt of completion of the investigation** required by this Action Item, the District will provide written notice to the complainant of the outcome of its investigation, by certified mail with return receipt requested, and, if the District substantiates the harassment, the District will issue, by certified mail with return receipt requested, a written offer to provide remedial services (e.g., tutoring or counseling) related to any effects from the harassment. The District's letter will inform the complainant that she has ten (10) calendar days from the date of the letter to accept the offer by providing written notice of acceptance.

Reporting Requirements: Action Item 6

- a. **Within ten (10) calendar days of receipt of completion of the investigation** required by this Action Item, the District 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 this Action Item.
- b. **Within ten (10) calendar days of receipt of completion of the investigation** required by this Action Item, the District will provide OCR with a copy of the letter to the complainant required by Action Item 6(b).

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 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.

Superintendent or Designee’s Name

Superintendent or Designee’s Signature

Date