

RESOLUTION AGREEMENT

Brownsville Independent School District OCR Complaint No. 06-21-1349

The U.S. Department of Education, Office for Civil Rights (OCR) and the Brownsville Independent School District (BISD or District) enter into this resolution 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 BISD. The BISD 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; and Title IX of the Education Amendments of 1972 (Title IX), and its implementing regulation at 34 C.F.R. Part 106, which prohibits discrimination on the basis of sex by recipients of Federal financial assistance.

Prior to the completion of OCR's investigation, the BISD agreed to resolve the issues under investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, the BISD agrees to take the following actions:

TITLE IX ASSESSMENTS

Action Item 1: Self-Assessment (Locker Rooms, Practice and Competitive Facilities)

The BISD agrees to conduct a comprehensive self-assessment to determine whether the District is providing equivalent benefits and opportunities to female and male students at the Hannah ECHS with respect to the provision of locker rooms, and practice and competitive facilities. The assessment will be documented in a report and shall include, at a minimum, an evaluation of the following:

- a. Quality and availability of the facilities provided for practice and competitive events for each athletic team at Hannah ECHS;
- b. Exclusivity of use of facilities provided for practice and competitive events;
- c. Availability of locker rooms for each District athletic team at Hannah ECHS;
- d. Quality of locker rooms for each District athletic team at Hannah ECHS;
- e. Maintenance of practice and competitive facilities;
- f. Preparation of facilities for practice and competitive events; and
- g. Quality and availability of bleacher seating, concession facilities, public address systems, and press boxes.

Reporting Requirement

**Controlled by: Department of Education
Office for Civil Rights
Michael Joseph Pillera**

By **May 1, 2022**, the BISD will provide OCR with the results of its assessment pursuant to Action Item 1, and all supporting documentation assessed or generated during completion of the assessment.

TITLE IX CORRECTIVE ACTION PLAN(S)

Action Item 2: Athletics Corrective Action Plan(s)

By **August 1, 2022**, the BISD will develop written corrective action plan(s) if the BISD determines that either boys or girls are denied an equivalent opportunity to participate in the BISD's interscholastic athletics program with respect the program component identified and assessed pursuant to Action Item 1 of this Agreement. The corrective action plan(s) will address the disparities found, and will identify specific steps the BISD will take to ensure that boy and girl athletes are afforded an equal opportunity to participate in its interscholastic athletics program, including timeframes for completion of each step. As part of this process, the BISD will consult with appropriate professionals¹ knowledgeable about Title IX, to assist it in compliance as necessary.

Reporting Requirement

- i. By **August 1, 2022**, the BISD will provide to OCR, for review and approval, its corrective action plan(s), including timeframes for completion. The corrective action plan(s) will include a description of the steps that will be taken by the BISD to ensure that equivalent athletic opportunities are being provided to boy and girl athletes with regard to locker rooms, practice and competitive facilities, housing and dining facilities and services, and publicity.
- ii. **Within 60 calendar days of receiving OCR's approval of the proposed written corrective action plan(s)**, the BISD will submit to OCR documentation establishing that the approved corrective action plan(s) are being implemented according to the approved timetable for completion. Reports will be due every **180 calendar days** thereafter until the corrective actions have been completed.
- iii. **Within 60 calendar days of completion of modifications and/or alterations identified pursuant to the approved timeline in the written corrective action plan(s)**, the BISD will submit documentation demonstrating that all actions indicated in the written corrective action plan(s) have been completed. The BISD will provide to OCR, for review and approval, its final report evidencing that boy and girl athletes at Hannah ECHS are provided

¹ The appropriate professionals may be employees, contractors, or other representatives of the BISD, or outside individuals or entities. The BISD may also request technical assistance from OCR.

equivalent athletic opportunities with regard the to the elements identified pursuant to Action Items 1, 2, and 3 of this Agreement.

ACCESSIBILITY ASSESMENT(S)

Standards

Accessibility will be measured during the assessment identified within **Action Item 3** as conformance and compliance with the requirements of Section 504 and Title II. With a construction date of 1999 and no subsequent alterations, the assessment(s) shall determine compliance with UFAS and/or the 1991 Americans with Disabilities Act Accessibility Guidelines (1991 Standards)². For components where construction or alterations commenced on or after March 15, 2012, the assessment shall determine compliance with the 2010 ADA Standards for Accessible Design (2010 Standards).

Title II regulations³ indicate that elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 Standards or UFAS, are not required to be modified in order to comply with the requirements set forth in the 2010 Standards; this is called a safe harbor. However, the safe harbor provision does not apply to those elements in existing facilities that were not subject to supplemental requirements.⁴ However, although preferable for a public entity to meet the 2010 Standards, if it is not possible to achieve compliance with the 2010 Standards in an existing setting, the requirements for program accessibility provide enough flexibility to permit the covered entity to pursue alternative approaches to provide accessibility.

ACCESSIBILITY ASSESSMENT

Action Item 3

By **May 1, 2022**, the BISD will conduct or complete an assessment of the accessibility of the audience-member seating at the girls' softball field at Hannah ECHS, as indicated within the aforementioned Accessibility Standards paragraph.

Reporting Requirement

² Under the Title II regulation, districts had a choice of adopting either UFAS or the 1991 Americans with Disabilities Act Accessibility Guidelines (ADAAG) for facilities constructed or altered after January 26, 1992 and prior to September 15, 2010.

³ See 28 C.F.R. § 35.150(b)(2)(i).

⁴ See 28 C.F.R. §35.150(b)(2)(ii).

By **May 1, 2022**, the BISD will provide OCR with a copy of the results and determinations of the assessment, subject to OCR's approval, identified within Action Item 3. The results and/or supplemental information provided to OCR, shall include the assessment and identification of the requirements identified within the Accessibility Standards paragraph above.

ACCESSIBILITY CORRECTIVE ACTION PLAN(S)

Action Item 4

By **August 1, 2022**, the BISD will develop written corrective action plan(s) identifying the modifications, if any, that are necessary to ensure accessibility compliance, pursuant to Section 504 and Title II, the elements, as identified within Action Item 3. As part of this process, the BISD will consult with appropriate professionals⁵ knowledgeable about the Accessibility Standards, to assist it in compliance as necessary. The plan(s) will include a timetable for completion of all identified modifications.

Reporting Requirement

- i. By **August 1, 2022**, the BISD will submit to OCR the written corrective action plan(s) identified within Action Item 4.

Action Item 5

Within 30 calendar days of receiving OCR's approval of the proposed written corrective action plan(s), the BISD will officially adopt and begin implementing the corrective action plan(s).

Reporting Requirements

- i. **Within 60 calendar days of receiving OCR's approval of the proposed written corrective action plan**, the BISD will submit to OCR documentation establishing that the approved corrective action plan is being implemented according to the approved timetable for completion. Reports will be due every **180 calendar days** thereafter until the corrective actions and/or modifications have been completed.
- ii. **Within 60 calendar days of completion of modifications and/or alterations identified pursuant to the approved timeline in the written corrective action plan**, the BISD will

⁵ The appropriate professionals may be employees, contractors, or other representatives of the BISD, or outside individuals or entities.

submit documentation demonstrating that all actions indicated in the written corrective action plan(s) have been completed.

The BISD 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 BISD understands that during the monitoring of this Agreement, if necessary, OCR may visit the BISD, interview staff, interview staff and students, and request such additional reports or data, as are necessary for OCR to determine whether the BISD has fulfilled the terms of this Agreement. Upon the BISD's satisfaction of the commitments made under this Agreement, OCR will close the case.

The BISD understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statutes and regulations. Before initiating such proceedings, OCR shall give the BISD 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 BISD's representative below.

Dr. René Gutiérrez
Superintendent
Brownsville Independent School District

Date