

RESOLUTION AGREEMENT  
Grand Center Arts Academy  
OCR Docket Number 07131245

Grand Center Arts Academy (Academy), St. Louis, Missouri, a school within the Confluence Academy (Confluence) charter school system, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve Allegation 1 of OCR Docket No. 07131245. The Academy, as a recipient of Federal financial assistance and a public entity, is subject to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35.

In Allegation 1 of OCR Docket No. 07131245, the complainant alleged that the Academy discriminated against her daughter on the basis of disability by failing to put a Section 504 plan in place for her during the 2012-13 school year. The Academy voluntarily agreed to resolve Allegation 1 prior to the conclusion of OCR's investigation into the allegation.

The Academy agrees to take the following actions:

**SECTION 504 POLICIES AND PROCEDURES**

1. Pursuant to the Resolution Agreement for OCR Docket No. 07131094, which was signed on August 26, 2013 by a Confluence representative, Confluence agreed to develop administrative policies and procedures to ensure its compliance with the Section 504 regulations. As detailed in the Resolution Agreement for OCR Docket No. 07131094, the policies and procedures Confluence agreed to develop must include the following:
  - (a) The expanded definitions of physical and mental impairments and major life activities in accordance with the ADA Amendments Act of 2008.
  - (b) The following language in accordance with the ADA Amendments Act:
    - (i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as: 1) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; 2) use of assistive technology; 3) reasonable accommodations or auxiliary aids or services; or 4) learned behavioral or adaptive neurological modifications. The ameliorative effects of the mitigating measures of ordinary

- eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.
- (ii) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
  - (iii) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
  - (iv) The definition of disability shall be construed in favor of broad coverage of individuals under Section 504 and Title II, to the maximum extent permitted by the terms of those laws.
- (c) Confluence will educate qualified students with a disability with students who are not disabled to the maximum extent appropriate to the needs of the students with a disability.
- (d) In accordance with the requirements of 34 C.F.R. § 104.35(b), Confluence will conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement. Confluence's evaluation procedures will ensure that: 1) tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer; 2) tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and 3) tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired, sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- (e) Confluence, in interpreting evaluation data and in making placement decisions, will:
- 1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
  - 2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
  - and 3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

- (f) Confluence will establish procedures to ensure that students with a disability are reevaluated periodically. A reevaluation period consistent with the Individuals with Disabilities Education Act (IDEA) is one means of meeting this requirement.
  - (g) Confluence will establish procedures for making manifestation determinations prior to imposing discipline which constitutes a significant change of placement on students with a disability. The procedures will address Confluence's obligations when it determines the behavior for which a student is being disciplined is a manifestation of that student's disability.
  - (h) Confluence will establish procedures to ensure that, when students with 504 plans transfer from building to building within Confluence, including from elementary to middle school to high school, all relevant information about the student's disability, evaluation and assessment history, and 504 plan(s) is provided to appropriate staff to ensure the continued provision of the student's free appropriate public education;
  - (i) Confluence will establish procedures to ensure that students that transfer into Confluence with a 504 plan from another school district will either be evaluated, or the 504 plan adopted within a reasonable time of transferring into Confluence. The period required by the IDEA for initial evaluation of transfer students is one means of meeting this requirement.
  - (j) Confluence will devise a plan to ensure that the Section 504 plans for qualified students with a disability are provided to appropriate staff, that staff implement the plans as written and document the implementation.
  - (k) Confluence will revise its due process procedures to include notice, an opportunity to examine relevant records, an impartial hearing with opportunity for participation of the parent/guardian and representation by counsel and a review procedure.
2. Within 60 calendar days of Confluence receiving written approval from OCR—through OCR's monitoring of OCR Docket No. 07131094—that the policies and procedures Confluence developed to ensure its compliance with the Section 504 regulations (504 policies and procedures) contain all of the elements set out in item 1 of this Agreement, the Academy will adopt and implement the 504 policies and procedures, and publish its Section 504 procedural safeguards for students and parents/guardians and its Section 504 due process procedures on its website in a section accessible to students and parents and in new and reprinted copies of its Student and Parent Handbook(s).

**REPORTING REQUIREMENT:** Within 30 calendar days of publishing its Section 504 procedural safeguards and its Section 504 due process procedures on its website, the Academy will provide OCR the electronic address for the specific webpage(s) on which the 504 procedural safeguards and 504 due process procedures are posted.

REPORTING REQUIREMENT: By August 15, 2014, the Academy will provide OCR a copy of its 2014-15 Student and Parent Handbook(s).

3. By June 2, 2014, the Academy will establish a procedure for providing parents and guardians of Academy students written notice when an Academy Care Team, Section 504 Team, or other team of individuals assembled by the Academy makes a Section 504 eligibility determination for a student. The procedure will require the Academy to issue the written notice to parents/guardians within 15 calendar days of the eligibility determination, and the written notice must clearly state whether or not the student was found to be eligible for Section 504 services and/or a 504 plan. The procedure will also require the Academy to notify parents/guardians of its Section 504 procedural safeguards when it issues its written notice regarding a Section 504 eligibility determination, including the parents' and guardians' right to request a due process hearing to challenge a Section 504 eligibility determination. The Academy may, but is not required to, incorporate this procedure into the 504 policies and procedures it developed pursuant to items 1 and 2 of this Agreement.

REPORTING REQUIREMENT: By June 9, 2014, the Academy will provide OCR a copy of the procedure it developed to satisfy item 3 of this Agreement.

4. By April 30, 2014, the Academy will determine whether it is going to process complaints of disability discrimination that are filed with the Academy under the formal grievance procedure set out in its Student and Parent Handbook, the Section 504 grievance procedure contained in Confluence Academy Regulation 1310, or a new grievance procedure.

REPORTING REQUIREMENT: By May 12, 2014, the Academy will notify OCR in writing which grievance procedure it is going to use to process future complaints of disability discrimination.

5. The Academy will ensure that its chosen grievance procedure for disability discrimination complaints (504 grievance procedure) provides for the prompt and equitable resolution of complaints made by or on behalf of students. The grievance procedure must include:
  - (a) an explanation of how to file a complaint under the procedure, including where and in what manner complaints can be filed;
  - (b) provisions for the adequate, reliable, and impartial investigation of complaints, including the opportunity for all parties involved to present witnesses and other evidence;
  - (c) reasonable, set time frames for major stages of the complaint process, including the Academy's process for extending the time frames;

- (d) a requirement that written notification will be given to the parties of the outcome of the complaint;
- (e) an assurance that the Academy will take steps reasonably calculated to prevent the recurrence of discrimination and to remedy the discriminatory effects of discrimination of which it has notice; and
- (f) the name or title, address, and telephone number of the employee(s) responsible for coordinating the Academy's nondiscrimination compliance efforts under Section 504.

REPORTING REQUIREMENT: By May 12, 2014, the Academy will submit its selected 504 grievance procedure, with any revisions needed to satisfy item 5 of this Agreement, to OCR for its review and approval.

6. Within 60 calendar days of receiving written approval from OCR that its 504 grievance procedure satisfies item 5 of this Agreement, the Academy will adopt and implement the procedure, post the procedure on its website in a section accessible to students and parents, and start including the approved procedure in new and reprinted copies of its Student and Parent Handbook(s).

REPORTING REQUIREMENT: Within 30 calendar days of posting its OCR-approved 504 grievance procedure on its website, the Academy will provide OCR the electronic address for the specific webpage on which the procedure is posted.

REPORTING REQUIREMENT: Within 30 calendar days of the first publication of its Student and Parent Handbook(s) containing the OCR-approved 504 grievance procedure, the Academy will provide OCR a copy of the Handbook(s).

REPORTING REQUIREMENT: The Academy will provide OCR documentation showing it has implemented its OCR-approved 504 grievance procedure during the first full school semester after the Academy adopts the grievance procedure. The documentation will be due to OCR within 30 calendar days after the completion of the applicable semester. The documentation will include the following: a list with the names of the students, and individuals filing on behalf of students, who filed a complaint, or grievance, alleging discrimination or harassment on the basis of disability pursuant to the 504 grievance procedure; a summary of the allegation(s) in each complaint; a description of the Academy's investigation into each complaint (including the name and title of the individual(s) who investigated the complaint); a copy or description of the Academy's determination regarding each complaint; and a copy of the Academy's correspondence informing the parties to each applicable complaint of its determination.

## **EMPLOYEE TRAINING REGARDING SECTION 504**

7. After OCR has reviewed and approved Confluence's 504 policies and procedures and the Academy has adopted the 504 policies and procedures, the Academy will provide annual training to its building-level 504 coordinator(s), special education coordinators, administrators, and teachers regarding the 504 policies and procedures. The training will also include a review of the Academy's OCR-approved Section 504 grievance procedure.

**REPORTING REQUIREMENT:** The Academy will provide OCR documentation by September 30, 2014, showing it has provided the training session required by item 7 of this Agreement. The documentation must include:

- (a) the date, time, and location of the training;
- (b) the topics addressed at the training;
- (c) copies of handouts distributed to the training participants;
- (d) the name(s), and title(s) of the individual(s) who conducted the training; and
- (e) one or more sign-in sheets with the name and title of each employee who participated in the training.

The Academy need not provide OCR with documentation regarding subsequent annual training unless OCR specifically requests this information.

## **INDIVIDUAL REMEDIES**

8. By April 30, 2014, the Academy will provide the complainant written notice of the Section 504 eligibility determination it made for her daughter in November 2012. The written notice will specify why an Academy preplacement evaluation team determined the complainant's daughter did not qualify for Section 504 services or a Section 504 plan.

**REPORTING REQUIREMENT:** By May 15, 2014, the Academy will provide OCR a copy of the written notice it issued to the complainant to satisfy item 8 of this Agreement.

9. If the complainant seeks to reenroll her daughter in the Academy and the Academy has available space in the complainant's daughter's grade level at the time, the Academy will readmit the complainant's daughter.
10. If the complainant's daughter is readmitted to the Academy during the 2013-14 or 2014-15 school year, within four weeks of the date she starts attending the Academy, the Academy will conduct a Section 504 evaluation of the complainant's daughter and hold a

Section 504 preplacement evaluation meeting to determine if the complainant's daughter is eligible for services or accommodations under Section 504. The Academy will invite the complainant to participate in the Section 504 preplacement evaluation meeting and will allow her to bring an advocate with her to the meeting. The Section 504 preplacement evaluation team will document its eligibility determination in writing. If the team finds that the complainant's daughter is eligible for Section 504 services/accommodations, it will develop and implement a written Section 504 plan for the complainant's daughter and ensure that the 504 plan is developed by a group of persons knowledgeable about the complainant's daughter, the meaning of evaluation data, and applicable placement options and is consistent with the OCR-approved 504 policies and procedures. If the team determines that the complainant's daughter is not eligible for Section 504 services/accommodations, within 15 calendar days of making the determination, the Academy will provide the complainant written notice of its determination along with a copy of its Section 504 procedural safeguards.

**REPORTING REQUIREMENT:** Within two weeks of holding the Section 504 preplacement evaluation meeting required by item 10 of this Agreement, the Academy will provide OCR documentation showing it held the meeting. In addition, the Academy will provide OCR documentation of its decision regarding the complainant's daughter's eligibility for Section 504 services/accommodations and, if applicable, documentation showing it provided the complainant notice of the Academy's Section 504 procedural safeguards. If the complainant's daughter does not attempt to reenroll in or is not readmitted to the Academy by May 15, 2015, the Academy will notify OCR in writing by May 30, 2015, that the complainant's daughter was not readmitted to the Academy.

The Academy understands that OCR will not close the monitoring of this Agreement until OCR determines that the Academy 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 the regulation implementing Title II at 28 C.F.R. § 35.130, which were at issue in this case.

The Academy understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the Academy understands that during the monitoring of this Agreement, if necessary, OCR may visit the Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Academy has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II at 34 C.F.R. §§ 104.33 and 104.35 and 28 C.F.R. § 35.130, respectively, which were at issue in this case.

The Academy 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 Academy written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/ Terry Noble  
Terry Noble, Director of Academics & Human Resources  
Confluence Academy/Grand Center Arts Academy

3/26/2014  
Date