

RESOLUTION AGREEMENT

Chase County USD # 284
OCR Docket Number 07141014

The Chase County Unified School District # 284 (District), Cottonwood Falls, Kansas, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), in order to resolve the allegations against the District in OCR Docket No. 07141014, and to ensure compliance with 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, and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, and its implementing regulation, 34 C.F.R. Part 100. The Title VI regulation prohibits discrimination on the basis of race, color or national origin by recipients of Federal Financial Assistance. Prior to the completion of OCR's investigation, the District agreed to resolve the allegations in this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to ensure compliance with Section 504/Title II and Title VI and/or their implementing regulations and to resolve the allegations of this complaint and any other issues identified by OCR during the course of its investigation of this complaint, the District voluntarily agrees to take the following actions:

I. GENERAL PROVISIONS

This Agreement resolves the allegations in OCR Docket No. 07141014 and does not constitute an admission by the District of any violation of Section 504, Title II, Title VI, or any other law.

This Agreement shall become effective upon the District's receipt of a letter from OCR advising the District that this Agreement resolves the allegations made in OCR Docket No. 07141014.

OCR agrees to discontinue its investigation of OCR Docket No. 07141014 based upon the District's commitment to take the actions specified in this Agreement which, when fully implemented, will resolve the allegations in this case and any other issues identified by OCR during the course of its investigation.

The District 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 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 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, Title II and Title VI; provided that any contact with or request of the District by OCR be communicated through the

District's attorneys assigned to this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, Title II, and Title VI which were at issue in this case. OCR will consider the District to have fulfilled the terms of this Agreement and to be in compliance with the regulations implementing Section 504, Title II, and Title VI upon OCR's determination that the District has completed the Reporting Requirements listed below in Section II.

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 a minimum of sixty (60) calendar days to cure the alleged breach.

II. RESOLUTION PROVISIONS

A. Individual Remedy

1. Within forty-five (45) calendar days from the date this agreement is executed, the District will initiate an evaluation and convene a multidisciplinary team (including the complainant) to evaluate the complainant's son (hereinafter, "the Student"). The multidisciplinary team will determine what regular or special education and related aids and services the Student requires to receive a free appropriate public education, as defined by 34 C.F.R. § 104.33. The multidisciplinary team will review the Student's current placement and determine whether there has been a change in placement due to the number of days the Student has been removed from school because of out of school suspensions. The multidisciplinary team will also consider whether it is appropriate under Section 504 for the Student to receive compensatory services for time missed from instruction due to suspensions, and if so, which type of services should be provided. This determinations will be made in accordance with the procedural requirements of the regulation implementing Section 504 at 34 C.F.R § 104.35; specifically, in interpreting evaluation data and making placement decisions, the District shall: a) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; b) ensure that the information obtained from all such sources is documented and carefully considered; and c) ensure

that the placement decisions are made by a group of persons, including persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options. In addition, the District will provide notice of its decisions and notice of Section 504 procedural safeguards/due process rights pursuant to 34 C.F.R. § 104.36 (notice, an opportunity to examine relevant records, an impartial hearing with opportunity for participation by the parents/guardians and representation by counsel, and a review procedure) to the Student's parents.

REPORTING REQUIREMENT: Within ninety (90) calendar days from the date this Agreement is executed, the District will provide OCR documentation indicating completion of the requirements in Paragraph 1 above.

Documentation acceptable to OCR includes: a) the date, time, and place of the meeting; b) the names and titles of the individuals involved in the decision(s); c) a listing or description of all determinations/ decisions made as a result of the evaluative process; d) the information on which the determinations/decisions were based (please provide OCR copies of all documents that were part of this information); e) copies of any notes maintained by the Student's multidisciplinary team; f) a copy of any IEP or Section 504 Plans revised or developed for the Student reflecting the regular or special education and related aids and services to be provided (if applicable); g) the results of the consideration of compensatory services under Section 504 for the Student for OCR's review and approval to ensure the District's satisfied 34 C.F.R. §§ 104.33 and 104.35 in determining whether the complainant's son should receive compensatory services before implementing any compensatory education decision; and h) documentation indicating the District provided the Student's parents notice of its evaluation decision(s) and notice of procedural safeguards/due process rights.

2. Within fifteen (15) calendar days from the date this Agreement is executed, the District, in consultation with the complainant, will identify a contact person at the Student's school, such as a counselor, who can receive reports of incidents of harassment, answer questions and assist the complainant and the Student with any other concerns regarding the Student's school. The District will ensure that the individual identified to be the contact person pursuant to this paragraph is knowledgeable on the District's obligation to appropriately address harassment. By letter or email, the District will notify the complainant of the contact person's name, telephone number and email address.

REPORTING REQUIREMENT: Within fifteen (15) calendar days from the date this Agreement is executed the District will provide OCR documentation showing it has provided the complainant a contact person and provided the contact information described above.

3. By _____, 2014, the District will make a written offer to the complainant to provide her son up to 10 (ten) counseling sessions with a school psychologist from the Flint Hills Special Education Cooperative, at no expense to the complainant.¹ The counseling sessions will be limited to specifically assist the Student to process the alleged harassment. The appropriate number of counseling sessions shall be determined by the school psychologist but shall in no event exceed 10 (ten). Once the complainant notifies the District of her choice to provide counseling to the Student, the District will work with the complainant and the school psychologist to arrange the counseling. The counseling sessions must be completed within one year from the date of the initial counseling session unless the school psychologist determines the counseling cannot be completed within one year. The District's obligations shall be limited to those set forth above and to payment for the counseling sessions.

REPORTING REQUIREMENT: By _____, 2014, the District will submit to OCR documentation showing completion of the activities detailed in item 3, including a copy of the written offer and proof of delivery. If the complainant accepts the counseling, the District will provide OCR a copy of the written verification of the number of the counseling sessions agreed to be provided to the Student.

B. Training

4. Within 120 calendar days from the date this agreement is executed, the District will provide training on the subject of race and disability discrimination and harassment to District officials and staff, including but not limited to, administrators or officials, teachers, paraprofessionals, counselors, process coordinators, nurses, maintenance, and bus drivers and any other individuals who may interact with students. The training will be conducted by an individual(s) knowledgeable about the laws and

¹ The counseling sessions may be conducted by a social worker from the Flint Hills Special Education Cooperative if agreed to by the Complainant.

issues pertaining to Section 504/Title II and Title VI. The District's training will include, at a minimum the following topics and activities:

- (a) Section 504/Title II and Title VI's prohibition against discrimination, including harassment;
- (b) what conduct constitutes disability and racial discrimination and harassment;
- (c) the District's disability and racial discrimination and harassment policy;
- (d) what District employees should do if a student complains of disability and or racial discrimination and/or harassment by another student, a District employee, or a third party;
- (e) what District employees should do if they witness disability and or racial harassment of a student by another student, a District employee, or a third party;
- (f) the District's process for investigating and resolving disability and racial harassment complaints;
- (g) Title VI's prohibition on retaliation against a student or other individual who files a disability and racial discrimination/harassment complaint or participates in a Section 504/Title II and
- (h) Title VI complaint investigation; and who to contact with questions about the District's process for reporting or addressing student complaints of disability and race discrimination, including disability and racial harassment.

REPORTING REQUIREMENT: By _____, 2014, the District will provide OCR documentation showing it has completed the training described above for the 2014-15 school year. The documentation must identify: a) the date(s) and time(s) of the training; b) the topics addressed at the training(s) (the District may provide OCR an outline of the training and a copy of the materials disseminated at the training); c) the name(s), title(s), and credentials of the individual(s) who conducted the training; and d) the name and title of each District administrator or employee who attended the training (a sign-in sheet with the attendees' names and titles is sufficient). OCR may be available to provide technical assistance and training to the District upon request.

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/s/ Jeff Kohlman
Jeff Kohlman, Superintendent
Chase County Unified School District # 284
Cottonwood Falls, Kansas

05/02/2014
Date