

RESOLUTION AGREEMENT

Parsons U.S.D. #503

OCR Docket Number 07141167

The Parsons U.S.D. #503 (District), Parsons, Kansas, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve allegations of discrimination based on disability and retaliation against the District and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and Title II of the Americans with Disabilities Act of 1990 (title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws.

The District is resolving this complaint during OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*.¹ Therefore, OCR has not made any findings of fact or law, or issued a final determination with respect to this complaint. The District agrees to take the following actions, but nothing contained in this Agreement shall be construed to constitute an admission on the part of the District to any of the allegations in this complaint.

SECTION 504 POLICIES, PROCEDURES AND FORMS

- 1) By June 1, 2015, the District will revise its Section 504 policies, procedures and forms to comply with Section 504 and Title II and the applicable federal regulations, including Section 504 regulations at 34 C.F.R. §§ 104.32 through 104.34 regarding the identification, evaluation, and educational placement of students who, because of a disability, need or are believed to need special education or related services. The District's Section 504 policies, procedures and forms shall be revised to include:
 - a. A statement that the District shall annually undertake to identify and locate every qualified child with a disability residing in the District's jurisdiction who is not receiving a public education and take appropriate steps to notify children with disabilities and their parents or guardians of the District's duties under Section 504 and Title II. The District shall include a provision addressing Section 504 and Title II in the District's child find publications, including newspaper notices, letters, flyers, and brochures.
 - b. A statement that the District shall provide a free appropriate public education (FAPE) to each qualified student within the District's jurisdiction. An appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, and complies with applicable federal regulations.

¹ OCR's *Case Processing Manual* may be accessed at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.html>.

- c. A statement that the District shall educate, or shall provide for the education of, each qualified student with a disability in its jurisdiction with students without disabilities to the maximum extent appropriate to the needs of the student with a disability. The District shall place a student with a disability in the regular educational environment unless it is demonstrated by the District that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.
- d. A statement that the District shall ensure that students with disabilities participate with students without disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the student with a disability. Nonacademic and extracurricular services and activities include, but are not limited to, meals, recess periods, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to students with disabilities, and employment of students.
- e. A statement that the District shall ensure that the placement decision is made in a timely manner, and in the least restrictive environment in accordance with 34 C.F.R. § 104.34.
- f. A statement that the District shall ensure that students with disabilities who have been provided special education or related services are periodically reevaluated.
- g. The District will revise its *Section 504 Student and Parent Rights in Identification, Evaluation and Placement* and *Receipt for Section 504 Student and Parent Rights* documents to include the current name or title, address, telephone number, and email address of the District's designated Section 504 and Title II compliance coordinator.
- h. The District will revise its Written Consent Section 504 Student and Parent Rights document to include OCR's updated address: U.S. Department of Education, Office for Civil Rights, One Petticoat Lane, 1010 Walnut Street, Suite 320, Kansas City, Missouri 64106, Telephone: (816) 268-0550; Fax (816) 268-0599; TTY: (877) 521-2172; Email: OCR.KansasCity@ed.gov.
- i. The District will revise its procedural safeguards statements to include a provision prohibiting retaliation.
- j. The District will revise its anti-discrimination, anti-retaliation and grievance procedures pertaining to disability to include a statement providing assurance

that, in investigating allegations of harassment/violence, the District will take steps to prevent further harassment/violence, and correct its effects if appropriate.

REPORTING REQUIREMENT:

By June 1, 2015, the District will provide OCR with a copy of the draft revised policies, procedures and forms for OCR's review and approval.

Within sixty (60) days of OCR's approval of the items submitted, the District will adopt the revised policies, procedures and forms and provide copies of them to OCR.

COMMUNICATION OF POLICIES, PROCEDURES AND FORMS

- 2) By August 31, 2015, the District will ensure the revised policies, procedures and forms above are consistent in all publications and communicate them to all District employees by disseminating them through the District's electronic communications (email) system.

REPORTING REQUIREMENT:

Within sixty (60) days of communicating the revised policies, procedures and forms to District employees, the District will provide OCR with documentation evidencing its dissemination of the documents.

NOTICE OF NONDISCRIMINATION

- 3) By April 1, 2015 the District will revise its notice of nondiscrimination to notify students, parents and others that the District does not discriminate on the basis of age, in accordance with the Age Discrimination Act of 1975 (Age Act). The District may refer to publication requirements set forth in the OCR publication, Notice of Non-Discrimination (August 2010). The publication is available at <http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>. OCR is available to provide technical assistance to the District upon request.

REPORTING REQUIREMENT:

By April 1, 2015, the District will provide OCR with a copy of the proposed revised notice of nondiscrimination, which meets the requirements set forth in this Agreement, for OCR's review and approval.

- 4) Upon receiving approval from OCR of its revised notice of nondiscrimination, the District will adopt, publish and prominently display its revised notice of nondiscrimination on the District’s website and in hard-copy and online publications.

REPORTING REQUIREMENT:

Within sixty (60) days of receiving approval of its revised notice of nondiscrimination from OCR, the District will provide OCR with documentation demonstrating the notice has been adopted by the District and provide OCR copies (or links to the information if it is available on the District’s website) of the documents evidencing its dissemination and publication of the approved notice of nondiscrimination.

ELEMENTARY TRANSITION ROOM

- 5) By April 1, 2015, the District will revise its Elementary Transition Room (ETR) program written description to include statements regarding participation in the ETR by District students who have been identified as students with a disability entitled to special education and related services including:
 - a. A statement that the District will ensure services identified for such students on a Section 504 plan or an Individualized Education Plan (IEP) will continue to be provided while such students are participating in the ETR.
 - b. A statement that when a student with an IEP or 504 Plan participation in the ETR constitutes a significant change of placement, the District will follow appropriate legal standards and the District’s applicable policies and procedures regarding educational setting, evaluation and placement.
 - c. A statement that the District’s Section 504 and Title II compliance coordinator will annually review the ETR to ensure the District is conducting the ETR in a manner consistent with the District’s Section 504 and Title II policies and procedures.

REPORTING REQUIREMENT:

By April 1, 2015, the District will provide a copy of its revised program description to OCR.

By June 30, 2015, and June 30, 2016, the District will provide OCR with the results of the review of the ETR, including any changes or modifications to the ETR program, as required in item 5(c) above.

- 6) By May 1, 2015, the District will conduct an administrative review of the circumstances involving each District student who spent time in the ETR at any time during the 2014-15 school year to determine whether there is a need to evaluate or reevaluate the student’s eligibility under Section 504 using the appropriate legal

standards and the District's applicable policies and procedures. To the extent that evaluation or re-evaluation is warranted, it will be conducted consistent with the evaluation, placement and procedural safeguard requirements of 34 C.F.R. §§ 104.32-104.36. If the District determines that evaluation or reevaluation is required, the District will provide written notice to the student(s)' parent or guardian of the District's proposed action along with the District's applicable procedural safeguard statement. The District will also, if it determines evaluation or reevaluation is required, convene a meeting of persons knowledgeable about the student after providing written notice to the student's parent/guardian, to determine and document whether the student requires specific remedial and/or compensatory education or related services to remediate any educational deficits resulting from the student not receiving services during the time the student was in the ETR.

REPORTING REQUIREMENT:

Within sixty (60) days of its administrative review, the District will submit to OCR documentation of its review, including, but not limited to, the method of its review, the individual(s) conducting the review, the student(s) whose circumstances the District review, an explanation of any decision made regarding the evaluation or reevaluation of the student, a copy of any correspondence with parents or guardians and, if applicable, a copy of any plan to deliver services to any student that includes a description of the services, the individual responsible for implementing the plan and the anticipated start and ending dates for services.

SURVEY

- 7) By April 1, 2015, the District will develop a survey for the students currently attending the ETR or parents of students whose children currently attend the ETR and staff members responsible for overseeing the ETR to obtain information regarding harassment of students in the ETR. The District will submit the climate survey to OCR by April 1, 2015, for its review and approval. The District agrees to conduct the survey within thirty (30) days of receiving approval from OCR. Participation in the survey will be entirely voluntary, and the survey will be conducted in a manner consistent with applicable law. The District will review the results of the survey within thirty (30) days of its administration. Based on a review of the results of the surveys, the District will take appropriate corrective actions to address issues related to harassment, identified through the surveys. The corrective action, if necessary, will be implemented within sixty (60) days of completion of the survey review.

REPORTING REQUIREMENT:

Within thirty (30) days of the District’s assessment of the results of the survey and the identification of the corrective action to be taken (or the determination that no corrective action is necessary), the District will provide OCR with a copy of the results of the survey, its analysis of the results, and any corrective action plan, if one is necessary.

REFERRAL TO LAW ENFORCEMENT

- 8) The District will review its policies and procedures on referring students to the local law enforcement agencies to ensure that the procedure does not result in discrimination against students with disabilities. The District’s Section 504 and Title II compliance coordinator will annually review the policy to ensure the District is conducting referrals in a manner consistent with the District’s Section 504 and Title II policies and procedures.

REPORTING REQUIREMENT:

The District will submit its referral policies to OCR prior to adopting any modifications to policies. Upon OCR’s approval, the District will adopt the revised policy and procedure.

By June 30, 2015, and June 30, 2016, the District will submit the results of the Section 504 and Title II compliance coordinator’s review of the District’s compliance with the law enforcement referral policies, including any changes or modifications to the policies or practices.

TRAINING

- 9) By September 30, 2015, the District will provide training on its anti-discrimination, anti-harassment and anti-retaliation requirements of Section 504 and Title II to District instructional staff, including all staff who teach, supervise or provide services to District students with disabilities and all District staff responsible for serving the ETR. The training will be conducted by an individual knowledgeable about the laws and issues pertaining to Section 504 and Title II compliance and the specific topics listed below. The training will include:
 - a. A discussion and distribution to trainees of the District’s Section 504 and Title II policies, procedures and forms, including the District’s policies and procedures regarding the identification, evaluation and placement of students who have or are suspected of having a disability.

- b. A discussion of the general anti-discrimination provisions of Section 504 and Title II, including the prohibition against denying a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service of the District² and the integration mandates³ of Section 504 and Title II.
- c. A discussion and distribution to trainees of the District’s anti-discrimination and anti-retaliation policies and procedures pertaining to disability, including the District’s grievance procedures for complaints of discrimination.
- d. A discussion of applicable least restrictive environment (LRE) standards and factors to consider by a multidisciplinary team prior to placement of students with disabilities and appropriate documentation of LRE considerations.
- e. A discussion of the District’s policies and procedures for contacting law enforcement or the school resource officer in response to a student’s behavior.

REPORTING REQUIREMENT:

Within sixty (60) days of completing the training required in Paragraph 7, the District will provide OCR documentation showing it has completed the training described above. The documentation must identify: (a) the date and location 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, title and work location of each District administrator or employee who attended the training (a sign-in sheet with the attendees’ names, titles, and work locations is sufficient).

- 10) 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, OR 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 the regulations implementing Section 504 and Title II, which were at issue in this case.
- 11) The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of

² See, 28 C.F.R. § 35.130(b)(1)(i), (ii) and (vii) (Title II) and 34 C.F.R. § 104.4(b)(1)(i), (ii) and (vii) (Section 504).

³ See, 34 C.F.R. § 104.4(b)(2) and 28 C.F.R. § 35.130(d)

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.

The person signing for the District represents that she is authorized to bind the District and to this Agreement.

/s/ Shelly Martin
Dr. Shelly Martin, Superintendent of the District

1-13-15
Date