

## **RESOLUTION AGREEMENT**

Raymond Central Schools  
OCR Docket Number 07151213

The U.S. Department of Education, Office for Civil Rights (OCR), conducted a complaint investigation of the Raymond Central Schools (District), Ceresco, Nebraska, pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. Prior to the completion of OCR's investigation, the District agreed to resolve the allegation in this complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Accordingly, to ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the allegation 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**

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 regulation implementing Section 504 at 34 C.F.R. § 104.3(j) and (l)(2), § 104.33, and § 104.35 and the regulation implementing Title II at 28 C.F.R. § 35.130(a), which were at issue in this case.

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 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.

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.

### **II. PROGRAM AND FACILITY ACCESSIBILITY**

- 1) Pursuant to the Title II regulation, which was amended on September 10, 2010, and became effective March 15, 2011, physical construction or alterations commenced after July 26, 1992, but prior to September 15, 2010, must comply with either the Uniform Federal Accessibility Standards (UFAS) or the 1991 Americans with Disabilities Act Accessibility Guidelines Standards (1991 Standards), except for the elevator exemption

contained in the 1991 Standards. This Title II regulation allows for departures from particular requirements of either standard by the use of other methods when it is clearly evident that equivalent access to the facility or part of the facility is provided.

- 2) Construction of the classrooms, offices, restrooms, media center, kitchen, cafeteria and corridors commenced in 1999 prior to March 15, 2012. The District indicated that it utilized the 1991 Standards for new construction and alterations to the Raymond Central Elementary School and OCR utilized the 1991 Standards for its accessibility survey of the District on November 4, 2015, and OCR cites these standards in the attached Compliance Concerns Chart, which is incorporated by reference into this Agreement.
- 3) The District will prepare a remedial plan which includes, at a minimum, the following information:
  - a) A description of the specific architectural changes or actions (action step) to be performed by the District to achieve compliance with the facility, area, space, or element identified in the Compliance Concerns Chart. Unless specifically cited in the remedial plan, all action steps shall satisfy or exceed the requirements set out in the 2010 Standards for Accessible Design (2010 Standards);<sup>1</sup>
  - b) Identification of the District employee or official responsible for ensuring implementation of each action step; and,
  - c) The expected start and completion date for each action step required by the Compliance Concerns Chart.

**REPORTING REQUIREMENT:** By 9-19-16 the District will submit the remedial plan to OCR for review. The District will not implement the remedial plan prior to receiving written notification of OCR's approval of the remedial plan.

- 4) The District will complete the action steps as set out in the remedial plan according to the Compliance Concerns Chart and requirements of the 2010 Standards. The District will provide OCR with four (4) status updates on progress implementing the remedial plan. Each status update will identify the action steps which have been completed since the date of the Agreement (first status update) or since the date of the previous status update (second, third and fourth status updates). These status updates will be submitted to OCR according to the following schedule:
  - a) First status update: 90 days from the date of the Agreement;
  - b) Second status update: 180 days from the date of the Agreement;
  - c) Third status update: 270 days from the date of the Agreement; and,
  - d) Fourth status update: one year from the date of the Agreement.

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<sup>1</sup> See, 28 C.F.R. § 35.151(b). The 2010 Standards are comprised of the 2004 ADAAG standards (appendices B & D to 36 C.F.R. § 1191) and the amended Title II regulation at 28 C.F.R. § 35.151. The 2010 Standards may be accessed at [http://www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm).

**REPORTING REQUIREMENT:** The District shall submit status updates as set out in item 4 above.

- 5) By 10-13-16 , the District will prepare and submit a detailed plan to OCR for review and approval describing how it will make the play areas at the Raymond Central Elementary School (playground plan) accessible in conformance with the 2010 Standards. The playground plan will include a detailed description of the alterations, renovations, and/or new construction work to be performed, the expected start and projected completion dates, and an explanation as to how the playground plan will meet the compliance areas described in this paragraph. The District will provide an accessible route leading to and through the play area which is firm, stable, and slip resistant and shall provide a sufficient range of play structure activities within the play area that is accessible to and usable by students with disabilities. The play area shall provide for an accessible surface beneath accessible play equipment or features that is firm, stable, slip resistant, and resilient. Additionally, the play areas shall provide a range of activities in the play area/facility for students with disabilities equivalent to the range offered to students without disabilities. Not every component or element of a playground structure need be accessible. However, where components provide different types of play experiences, such as rocking, swinging, climbing, spinning, or sliding, at least one of each type of activity must be accessible to students with disabilities.

The play area shall include a minimum of three ground level accessible components. The District shall provide an accessible route leading to and through the three ground level and the elevated accessible components that is firm, stable, slip resistant and resilient. The District may choose one of the following options as its plan to make the play areas at the Raymond Central Elementary School (playground plan) accessible in conformance with the 2010 Standards or may develop a different plan so long as it meets the 2010 Standards for play area accessibility.

#### Option 1

The District may utilize the ground level components (tether ball pole, swing, and overhead glider) currently located in the play area to comply with the 2010 accessibility standards. The tether ball pole should be reconstituted with a tether ball and attachment.

#### Option 2

The District may add a new ground level component to the existing ground level components (swing and overhead glider).

The District's playground plan may include stages for completion of the various modifications and alterations needed in order to ensure the play areas comport with the 2010 Standards. OCR is available to provide technical assistance upon request.<sup>2</sup>

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<sup>2</sup> A *Summary of Accessibility Guidelines for Play Areas* may be accessed on the United States Access Board website at <http://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/play-areas>. Also see, *Surfacing the*

**III. DESIGNATE AND TRAIN SECTION 504 COORDINATOR**

6. The District will designate at least one person to coordinate its efforts to comply with Section 504, as required by 34 C.F.R. §104.7(a) and will ensure that this individual is identified consistently in its policies and procedures regarding disability discrimination. Specifically, this person’s title and contact information will be included in the District’s notice of nondiscrimination, grievance procedures, Section 504 policies and procedures, and website if applicable.

**REPORTING REQUIREMENT:** Within 30 calendar days of executing this Agreement, the District will provide OCR with the name, title and contact information of the individual designated to serve as the District’s Section 504 coordinator.

**REPORTING REQUIREMENT:** By 90 calendar days of executing this Agreement, the District will provide documentation demonstrating the Section 504 Coordinator is identified in its policies and procedures regarding disability discrimination, specifically, its notice of nondiscrimination, grievance procedures, Section 504 policies and procedures, and website if applicable.

7. Within 60 calendar days of executing this Agreement, the District will ensure the identified Section 504 coordinator receives training on his or her responsibilities as the District’s designated Section 504 coordinator. The training will be provided by a person knowledgeable of the Section 504 regulation and requirements.

**REPORTING REQUIREMENT:** Within 90 calendar days of executing this Agreement, the District will provide documentation demonstrating the Section 504 coordinator was provided with the training identified in item 7 of the Agreement, including the name and credentials of the person who provided the training to the designated coordinator and the date the training was provided. The District may also submit to OCR a copy of any training materials used.

/s/ Paul Hull

Paul Hull, Superintendent  
Raymond Central Schools

9-6-16

Date