

RESOLUTION AGREEMENT
Ketchum Public Schools
OCR Case Number 07-17-1250

The U.S. Department of Education, Office for Civil Rights (OCR), and the Ketchum Public Schools (District), Ketchum, Oklahoma, enter into this Resolution Agreement (Agreement) to resolve the allegation in the above-referenced complaint. The District agreed to resolve the complaint prior to the completion of OCR's investigation pursuant to Section 302 of OCR's *Case Processing Manual*. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District 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), 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.

SERVICE ANIMAL POLICY

1. The District will revise Board of Education Policy EMG, *Service Animals*, to ensure that it complies with Section 504 and Title II requirements. Specifically, the District will:
 - a) remove the requirement that individuals with a disability who want to use a service animal on a routine or daily basis (or parents/guardians making such a request on behalf of students with disabilities) have to make a written request to the superintendent at least 10 business days prior to bringing the service animal to school facilities, programs, or activities;
 - b) remove language stating or implying that service animals must perform a function or task that an individual with a disability cannot perform for herself or himself¹;
 - c) clarify that when it is not obvious what service a dog provides for an individual with a disability, District personnel may only ask two questions to determine if it is a service animal: 1) Is the dog a service animal required because of a disability?; and 2) What work or task has the dog been trained to perform?;
 - d) remove language stating that owners of service animals are liable for any harm or injury caused by the animal to students, staff, visitors, and property;

¹ The tasks, or work, performed by a service animal must be directly related to an individual's disability, but do not have to be functions or tasks the individual is unable to perform. Examples of work or tasks performed by service animals include, but are not limited to, assisting individuals who are blind or have low vision with navigation, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, pulling a wheelchair, assisting an individual who is having a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, calming an individual with Post Traumatic Stress Disorder during an anxiety attack, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

- e) remove language stating or implying that a student with a disability, or a parent or other individual acting on behalf of a student with a disability, must provide the District a service dog’s eating, drinking, and toileting schedule as a precondition to the District allowing the service dog to enter a District building or attend a District program or activity; and
- f) add language stating that allergies to dogs and a fear of dogs are not valid reasons for prohibiting a student or other individual with a disability from bringing a service animal into a District building or to a District program or activity.

REPORTING REQUIREMENT: Within 60 calendar days of signing this Agreement, the District will submit a copy of revised Policy EMG to OCR for its review and approval.

- 2. Within 60 calendar days of receiving OCR’s written approval of revised Policy EMG, the District will adopt and disseminate the policy to all District employees, post the policy on the District’s website, and post the policy in each District school in an area accessible to students and parents.

REPORTING REQUIREMENT: Within 90 calendar days of receiving written approval from OCR of revised Policy EMG, the District will provide OCR documentation showing it has complied with item 2 of this Agreement.

TRAINING FOR DISTRICT ADMINISTRATORS

- 3. Within 60 calendar days of adopting revised, OCR-approved Policy EMG, the District will provide training to all District-level and school-level administrators regarding the use of service animals and applicable Section 504 and Title II requirements. At a minimum, the training will address:
 - a) Section 504’s and Title II’s prohibition against discrimination on the basis of disability;
 - b) how the term “service animal” is defined;
 - c) the two permissible questions District personnel may ask to determine if a dog is a service animal when it is not obvious what work or tasks the dog is trained to do for an individual with a disability (i.e., if the animal is required because of a disability, and what work or task the animal has been trained to perform);
 - d) examples of the types of work or tasks service animals may be trained to perform;
 - e) that the District may not require documentation such as proof that a dog has been certified, trained, or licensed as a service animal;
 - f) revised, OCR-approved Policy EMG; and
 - g) who in the District to contact with questions regarding service animals.

REPORTING REQUIREMENT: Within 30 calendar days of providing the training required by item 3 of this Agreement, the District will provide OCR documentation showing it has completed the training. The documentation must identify and include: the name and title of the individual(s) who conducted the training; the date, time, and location of the training; the topics addressed at the training; a copy of any materials distributed at the training; and a sign-in sheet with the name and title of each individual who participated in the training.

GRIEVANCE PROCEDURE FOR DISABILITY DISCRIMINATION COMPLAINTS AND SECTION 504 DUE PROCESS PROCEDURES

4. The District will revise its written grievance procedure for complaints made by or on behalf of students with disabilities alleging disability discrimination, including disability harassment, (currently titled “Grievance Procedure for Filing, Processing, and Resolving Complaints Alleging Discrimination”) to ensure that the procedure provides for the prompt and equitable resolution of such complaints. The grievance procedure must specify what types of disability discrimination complaints it applies to and 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 and a statement that the District’s compliance coordinator(s) may not investigate or make a determination regarding a complaint alleging discrimination by the compliance coordinator(s);
 - c) reasonable, set time frames for major stages of the complaint process;
 - d) a requirement that written notification will be given to the parties of the outcome of the complaint investigation;
 - e) an assurance that the District 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 for the District’s Section 504/Title II coordinator.

REPORTING REQUIREMENT: By June 30, 2018, the District will submit its revised grievance procedure to OCR for its review and approval.

5. Within 90 calendar days of receiving OCR’s written approval of the District’s revised grievance procedure, the District will adopt and implement the procedure, distribute the procedure to all District employees, post the procedure on its website in a section accessible to students and parents, and start including the approved grievance procedure in new and

reprinted copies of its student handbooks, unless school is not in session when OCR approves the grievance procedure. In that case, the approved grievance procedure will be distributed to employees and posted on the District's website within 60 calendar days after school starts.

REPORTING REQUIREMENT: Within 15 calendar days after distribution of the revised grievance procedure, the District will provide OCR documentation showing it was distributed to all District employees.

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

REPORTING REQUIREMENT: Within 30 calendar days of issuing the first new or reprinted student handbook containing the OCR approved grievance procedure, the District will provide OCR a copy of the handbook.

6. The District will develop a system of procedural safeguards that applies to District actions regarding the identification, evaluation, and educational placement of students who, because of a disability, need, or whom the District believes to need, special instruction or related services. In accordance with 34 C.F.R. § 104.36, this system of procedural safeguards (also referred to as Section 504 due process procedures) must include notice, an opportunity for the parents or guardians of a student to examine relevant records, an impartial hearing with the opportunity for participation by a student's parents or guardians and representation by counsel, and a review procedure.

REPORTING REQUIREMENT: Within 60 calendar days of signing this Agreement, the District will submit a copy of the Section 504 due process procedures it developed to OCR for its review and approval.

7. Within 60 calendar days of receiving OCR's written approval of the Section 504 due process procedures it developed pursuant to item 6 of this Agreement, the District will adopt and disseminate the due process procedures to all District employees, post the due process procedures on the District's website, and post the due process procedures in each District school in an area accessible to students and parents.

REPORTING REQUIREMENT: Within 90 calendar days of receiving written approval from OCR of its Section 504 due process procedures, the District will provide OCR documentation showing it has complied with item 7 of this Agreement.

8. Within 60 calendar days of receiving OCR's written approval of the Section 504 due process procedures it developed pursuant to item 6 of this Agreement, the District will provide specialized training regarding the due process procedures to its designated Section 504 coordinator and other District administrators and staff responsible for implementing the due process procedures.

REPORTING REQUIREMENT: Within 30 calendar days of providing the training required by item 8 of this Agreement, the District will provide OCR documentation showing it has completed the training. The documentation must identify and include: the name and title of the individual(s) who conducted the training; the date, time, and location of the training; the topics addressed at the training; a copy of any materials distributed at the training; and a sign-in sheet with the name and title of each individual who participated in the training.

INDIVIDUAL REMEDIES

9. If the Complainant’s son reenrolls in the District, visits any District facilities, or attends any District programs or activities, with his service dog prior to the District making the revisions to Policy EMG required by this Agreement, or prior to receiving OCR’s approval of revised Policy EMG, the District will permit the service dog to accompany the Complainant’s son in all areas of District facilities, and at all District programs and activities, where students and members of the public are allowed to go.

REPORTING REQUIREMENT: If the Complainant’s son reenrolls in the District, visits any District, or attends any District programs or activities during the 2017-18 school year prior to OCR approving revised Policy EMG, the District will submit documentation to OCR, within 30 calendar days of the visit, showing it complied with item 9 of this Agreement.

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 Section 504 and its implementing regulation at 34 C.F.R. §§ 104.4(b)(1), and the Title II implementing regulation at 28 C.F.R. § 35.136(a). Upon completion of the obligations under this Agreement OCR shall close 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.

/s/ Dandy Risman
Dandy Risman, Board of Education President
Ketchum Public Schools

2/12/18
Date