

**Resolution Agreement**  
**Central Consolidated School District**  
**Complaint No. 08-12-1013**

In order to resolve the compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and its implementing regulation at 34 C.F.R. part 104 and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, during the investigation of Complaint No. 08-12-1013 filed against Central Consolidated School District, the District agrees to implement the following Resolution Agreement:

1. The District will review and revise its Section 504 and Title II grievance procedures in accordance with 34 C.F.R. § 104.7(b) and 28 C.F.R. § 35.107(b) so that the grievance procedures incorporate appropriate standards and provide for the prompt and equitable resolution of complaints alleging actions that would violate Section 504 or Title II. In addition, the procedures will stipulate that the District may request that grievances be written, but that the District will respond appropriately to non-written grievances as well; will provide an adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; will indicate that confidentiality will be maintained to the extent permitted by law; will prohibit retaliation; will include reasonable timeframes for individuals to file a grievance and appropriate and reasonably prompt timeframes for the District’s investigation and response; and will provide notice to the parties of the outcome of the complaint, and when appropriate, an assurance that the District will take steps to prevent the recurrence of any discrimination and to correct discriminatory effects on the complainant and others. In addition, the procedures will make clear that the grievance procedures apply to complaints alleging discrimination by employees, other students, or third parties.

**REPORTING REQUIREMENT 1:**

- By July 1, 2015, the District will provide for OCR’s review and approval a copy of the revised grievance procedures required by Term 1.
2. The District will modify the draft grievance procedures required by Term 1 in accordance with any concerns addressed by OCR until OCR approves the revised grievance procedures. Within **30 days** of OCR’s approval of the grievance procedures, the District will adopt and publish the approved grievance procedures. Publication must include the District’s handbook and its website. The District will also provide a copy of the approved grievance procedures in Term 1 to all District staff, teachers, and administrators.

**REPORTING REQUIREMENT 2:**

- Within 30 days of OCR’s approval of the grievance procedures in Term 1, the District will document to OCR that it was adopted and published, and that staff received notice of the revised grievance procedures approved by OCR.
3. The District’s Special Education Director has developed and is in the process of implementing a system to monitor the implementation of students’ IEPs and Section 504

plans and ensure the plans are being implemented properly at XXXXX High School, which includes the use of an electronic IEP documentation system that flags deadlines and other requirements, assignment of a case manager to oversee the implementation of each student's IEP and/or Section 504 plan, and the training provided below. CCSD will provide parents with an opportunity to give feedback in writing in each IEP or Section 504 plan if the parents have concerns about the implementation of their child's IEP or Section 504 plan. If the monitoring system indicates certain IEPs or Section 504 plans are not being implemented properly, the District will take prompt and appropriate corrective action to remedy any issues. The District will assign the Special Education Department Head to monitor the implementation of IEPs at XXXXX High School and the College and Career /At Risk Coordinator to monitor Section 504 Plans. The District will assign the Assistant Principal to supervise the Special Education Department Head and College and Career/At Risk Coordinator.

**REPORTING REQUIREMENT 3:**

- By July 1, 2015, and every six months thereafter until July 1, 2016, unless the District's reports present an issue requiring OCR to require additional reports, the District will submit to OCR:
  - A copy of the monitoring system developed by the District and a summary of the District's efforts to implement its monitoring system and all documents relevant to the District's implementation of its monitoring system;
  - A copy of any written feedback provided by parents regarding their concerns about how their child's IEP or Section Plan is being implemented; and
  - If the monitoring system indicates certain IEPs or Section 504 plans are not being implemented properly at XXXXX High School, all documents relevant to the deficiencies and the District's efforts to take appropriate corrective action. Further, for oral discussions, the District will provide a summary of those discussions and indicate the participants and date.
  
- 4. The District will conduct an initial in-service training by August 31, 2015, and annually thereafter until OCR closes the monitoring of this Agreement, to XXXXX High School teachers and administrative personnel regarding implementation of IEPs and Section 504 plans, with an emphasis on inclusion and the provision of modifications in the regular education environment. An individual or individuals knowledgeable about the laws and issues pertaining to Section 504 and Title II will provide the initial training. The trainings will include, at minimum:
  - A review of the District's responsibility to comply with Section 504 and Title II, which state that educational institutions under OCR's jurisdiction may not discriminate against any person on the basis of disability;
  - The District's FAPE obligations, based on Section 504's requirements at 34 C.F.R. §§ 104.33–35, focusing on the requirement at 34 C.F.R. § 104.33(a) and (b) that the District provide FAPE to all of its students with disabilities, regardless of the nature or severity of the disability. An appropriate education is defined as the provision of regular or special education and related aids and services that are

designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met, and that are developed in accordance with the procedural requirements of 34 C.F.R. §§ 104.34–104.36. Further, the training should explain that implementation of an IEP developed in accordance with the Individuals with Disabilities Education Act is one means of meeting this regulatory requirement, and one of the ways in which a district can deny a student a FAPE is by failing to properly implement the student’s IEP or Section 504 plan: All provisions of a student’s IEP or Section 504 Plan must be implemented;

- The District’s revised Section 504 and Title II grievance procedures and its responsibility to promptly investigate and to appropriately respond when put on notice of alleged disability discrimination, even if a formal complaint is not filed. In this regard, notice of alleged disability discrimination means any instance in which the District learns that disability discrimination may have occurred, and an appropriate response means taking prompt and effective action to end any discrimination found to prevent it from recurring and, where appropriate, to remedy the effects on any person who was discriminated against; and
- A statement by the District that it does not tolerate disability discrimination, that such conduct is prohibited by law, and that effective action, including disciplinary action where appropriate, will be taken.

**REPORTING REQUIREMENT 4:**

- By September 30, 2015, the District will submit documentation to OCR demonstrating that it has fully complied with this term. Such documentation will include:
    - The training materials.
    - The date and time the training was held.
    - A copy of the attendance sheet from the training, including the name and title of each participant, along with a written assurance that all required attendees were present during the training.
    - A plan for conducting annual training thereafter.
5. At the time it submits its 40 day count report to the New Mexico Public Education Department, the District will complete a statistical review of the class-by-class distribution of students with disabilities at XXXXX High School during school year 2015-16, to ensure that there are no irregularities in how students with disabilities are assigned to classes. This will be done by the special education department head with oversight by the XXXXX High School principal. This review will include verification that students with disabilities are not over or under-represented in certain teachers’ classes without a legitimate justification. Further, if the District’s review reveals any irregularities in how students with disabilities are assigned to classes without legitimate justifications, the District will take appropriate remedial action to correct the irregularities for students, and the District will take appropriate corrective action for District employees who are determined to have either improperly assigned students to classes due to their disability or have prevented or discouraged the assignment of students with disabilities to their classes.

**REPORTING REQUIREMENT 5:**

- By October 31, 2015, the District will submit documentation to OCR demonstrating that it has fully complied with this term. Such documentation will include:
  - An explanation of the District’s review process and all related documents.
  - A list of any irregularities in how students with disabilities are assigned to classes and, if applicable, an explanation of whether the District found the irregularities to have legitimate justifications.
  - Verification from those individuals responsible for developing schedules for students with disabilities, including case managers, that students were not scheduled in a discriminatory manner.
  - If applicable, an explanation of the District’s remedial action to avoid future irregularities in the class assignment of students with disabilities and all related documents.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient 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. §§ 104.7, 104.33–35 and 28 C.F.R. §§ 35.107, 35.130, 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 a minimum of sixty (60) calendar days to cure the alleged breach.

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 Title II at 34 C.F.R. §§ 104.7, 104.33–35 and 28 C.F.R. §§ 35.107, 35.130, which were at issue in this case.

**For the Central Consolidated School District:**

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Don Levinski  
Superintendent, Central Consolidated School District

5/1/2015

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Date

