

Resolution Agreement

Riverside Elementary District #2 Case Number 08-13-1131

In order to resolve the remaining allegations in Case Number 08-13-1131, filed against Riverside Elementary District #2 (the District) and opened for investigation 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. Section 794 (Section 504) 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, 42 U.S.C. Sections 12131-65, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department and by public entities respectively, the District agrees to implement the following Resolution Agreement.

During the course of OCR's investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

RESOLUTION ACTION

1. The District will revise its Special Instructional Programs policies and procedures to include a section regarding the implementation of Individualized Education Programs (IEPs) and Section 504 Plans. The section regarding the implementation of IEPs and Section 504 Plans must include the following:
 - a. Notice to all appropriate staff members that they must continue to offer and to attempt to implement the prescribed services, even when a student refuses them.
 - b. Notice to all appropriate staff members that if any staff member believes that any prescribed service is no longer required, the staff member should seek to convene the student's IEP or Section 504 Plan team to determine whether the IEP or Section 504 Plan should be revised to remove a prescribed service.

REPORTING REQUIREMENT: Within 60 days¹ from the date of this Agreement, the District will provide OCR its draft revised Special Instructional Programs policies and procedures.

2. The District will modify the draft revised Special Instructional Programs policies and procedures in accordance with any concerns addressed by OCR until OCR approves the revised Special Instructional Programs policies and procedures. After obtaining OCR's

¹ All timeframes are expressed as calendar days.

approval of the revised Special Instructional Programs policies and procedures, the District will adopt and implement the revised Special Instructional Programs policies and procedures.

REPORTING REQUIREMENT: Within 30 days of OCR's approval of its revised Special Instructional Programs policies and procedures, the District will provide documentation that it has adopted and implemented the revised Special Instructional Programs policies and procedures, including documentation that it notified appropriate staff of the revised Special Instructional Programs policies and procedures.

3. Within 120 days from the date of OCR's approval of the revised Special Instructional Programs policies and procedures, the District will provide training on the revised Special Instructional Programs policies and procedures to all instructional and support-services staff, explaining the revised Special Instructional Programs policies and procedures and how the revised Special Instructional Programs policies and procedures will be implemented.

REPORTING REQUIREMENT: Within 30 days after completing the training on its revised Special Instructional Programs policies and procedures, the District will provide OCR an outline of the training, the name and qualifications of the trainer, a copy of the materials distributed at the training, and a list (by name and job title) of all staff who completed the training.

4. Establish an annual training schedule regarding the revised Special Instructional Programs policies and procedures.

REPORTING REQUIREMENT: Within 30 days after completing the first training on the revised Special Instructional Programs policies and procedures, submit the proposed annual training schedule to OCR.

5. Within 60 days from the date of this Agreement, the District will convene an IEP meeting for the purpose of discussing and determining whether the Parental Communication component of the Student's IEP should be revised. The District will also convene the IEP meeting for the purpose of determining the compensatory services to which the Student may be entitled and to develop a plan for providing those compensatory services to the Student at no cost to the parents. Specifically, the IEP Team (the Team) will consider and evaluate the extent to which the District failed to implement specific provisions of the Student's IEP. Based on the Team's findings, the Team will determine the type and number of hours of compensatory services, if it determines that such services are necessary, to make up for any missed educational services. The Team will then develop a plan for providing those compensatory services to the Student within six months. The District shall promptly notify the parents in writing of the compensatory services being offered and the proposed, prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. Sections 104.35 and 36. The District will ensure that any decisions reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Student's parents and their invitees. The Team will

include District employees who have knowledge of the matters being considered by the Team.

REPORTING REQUIREMENT ONE: Within 21 days from the date of the IEP meeting, the District will submit documentation to OCR that includes the following:

- a. A list of the individuals who attended the meeting (by name, title, and role in the meeting).
- b. Documentation of the District's invitation to the parents to attend the IEP meeting and obtain their input.
- c. A copy or summary of the information that the Team considered in reaching its determination regarding the Parental Communication component of the Student's IEP. Specifically, the District will provide documentation demonstrating that the Team considered how, when, and how often it will communicate with the parent(s) and who is responsible for communicating with the parent(s) regarding the Student's academic progress and the implementation of the IEP.
- d. A copy or summary of the information that the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student.
- e. Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student.
- f. Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions.
- g. A plan for the prompt provision of compensatory services to the Student at no cost to the parents.
- h. Documentation that the Complainant was notified in writing of the compensatory services offered by the District.
- i. Documentation that the District provided the Complainant with notice of the Student's rights, her rights, and the applicable procedural safeguards under Section 504 and Title II of the ADA.

REPORTING REQUIREMENT TWO: Within six months of the IEP meeting, the District will submit documentation to OCR demonstrating that all of the compensatory services determined necessary by the Team have been provided to the Student.

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 and Title II, 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 the Agreement, if necessary, OCR may visit the District, interview District employees, 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.

When OCR determines that the District has fulfilled all of the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, OCR will close Case Number 08-13-1131 and will send a letter to the District stating that Case Number 08-13-1131 is closed.

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. Sections 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 60 calendar days to cure the alleged breach.

The person signing for the District represents that he is authorized to bind the District to this Agreement. This Agreement becomes effective the date of the signature below.

For Riverside Elementary District #2:

_____/s/_____
Dr. Jaime Rivera
Superintendent of Schools

_____/1/10/2014_____
Date