

Resolution Agreement
Cartwright Elementary School District
Complaint No. 08-13-1172

In order to resolve the allegations that the District (1) discriminated on the basis of disability by failing to promptly and equitably resolve Complainant's complaints of peer-on-peer disability harassment regarding incidents that occurred both at school and on the bus; (2) discriminated on the basis of sex by failing to promptly and equitably resolve Complainant's complaints of peer-on-peer sexual harassment regarding incidents that occurred both at school and on the bus; (3) discriminated on the basis of race by failing to take appropriate steps to address peer-on-peer racial harassment; (4) discriminated against a student on the basis of disability and race by disciplining her more harshly than Hispanic, non-disabled students involved in the same altercations; and (5) retaliated against a student by withdrawing her from school on approximately XXX in case number 08-13-1172, filed against Cartwright Elementary School 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. § 794 (Section 504) and its implementing regulation at 34 C. F. R. part 104; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. Part 35; Title IX of the Education Amendments of 1972, 42 U.S.C. 1681 *et seq.* and its implementing regulation at 34 C.F.R. Part 106; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* and its implementing regulation at 34 C.F.R. Part 100, the District agrees to implement the following Resolution Agreement.¹

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, Title II, Title IX, and Title VI. 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 and the OCR Office Director believes that doing so is appropriate, so long as 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.

1. The District will submit for OCR review and approval:
 - a) District policies and procedures regarding how the District must respond to complaints of disability discrimination, including the District's internal grievance procedures;
 - b) District policies and procedures regarding how the District must respond to complaints of sex discrimination, including the District's internal grievance procedures;
 - c) District policies and procedures regarding how the District must respond to complaints of race discrimination, including the District's internal grievance procedures;

¹ We also note that individuals filing a complaint, participating in an investigation, or asserting a right under Section 504, Title II, Title IX, and Title VI are protected from intimidation or retaliation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e); 28 C.F.R. § 35.134; 34 C.F.R. § 106.71, which incorporates 34 C.F.R. § 100.7(e); and 34 C.F.R. § 100.7(e), respectively.

- d) District discipline policies and procedures which outlines the consequences or series of consequences for students who have violated the District student code of conduct; and
- e) The District's policies and procedures regarding anti-retaliation and anti-discrimination against individuals on the basis of disability, sex, and race.

REPORTING REQUIREMENT: The District will submit to OCR the above-mentioned policies and procedures by **December 18, 2013**.

- 2. Should OCR require any revisions to the District's policies and procedures identified in Item #1, OCR will notify the District of any necessary revisions, and the District will submit those revisions for OCR approval. Within 30 days of OCR's approval of the District's final version of the policies and procedures, the District will take action to officially adopt, publish and disseminate the procedures, using its standard methods for disseminating new information to students, employees, and members of the public.

REPORTING REQUIREMENT: Within 30 days of publishing and disseminating the revised procedures, the District will provide OCR with documentation that this has taken place (such as copies of notices, an explanation of where and when notices were published or distributed).

- 3. The District will draft for OCR's approval in-service training materials and identify one or more persons knowledgeable about Section 504, Title II, Title IX, Title VI, and retaliation who will provide the training, on an annual basis. The training will include, at minimum:
 - a) A review of the District's responsibility to comply with Section 504, Title II, Title IX, and Title VI, which state that educational institutions under OCR's jurisdiction may not discriminate against any person on the basis of disability, sex, or race, respectively;
 - b) The prohibition against disability, sex, and race discrimination, including retaliation, by Section 504, Title II, Title IX, and Title VI, respectively, and an explanation of what constitutes disability sex, and race discrimination, including retaliation;
 - c) The District's responsibility to promptly and equitably resolve disability and sex discrimination claims, including retaliation;
 - d) The District's responsibility to take appropriate steps to address peer-on-peer racial harassment; and
 - e) A review of the District's discipline policies and procedures, including the consequences or series of consequences for students who have violated the District student code of conduct; and
 - f) A statement by the District that it does not tolerate disability, sex, or race discrimination or retaliation, that such conduct is prohibited by law, and that effective action, including disciplinary action where appropriate, will be taken.

REPORTING REQUIREMENT: Within thirty (30) days of OCR's approval of the policies and procedures identified in Item #1 above, the District will submit documentation to OCR demonstrating that it has fully complied with this paragraph. Such documentation will include:

- The draft training materials for OCR's review and approval.
 - Identification of the intended trainer(s) and information about the trainer's qualifications.
4. Within thirty (30) school days of OCR's approval of the training materials, the District will schedule and conduct an in-service training. Attendees at this training will include all staff and administrators at Marc T. Atkinson Middle School (School), the bus drivers who service the School, and any other District employees and administrators who, during the 2012-13 school year, were responsible for responding to the Complainant's disability discrimination claims, imposing discipline on the Student, and withdrawing the Student from school in Spring 2013.

REPORTING REQUIREMENT: Within ten (10) calendar days after the conclusion of the training, the District will submit to OCR proof that the training was provided. Such documentation will include:

- The agenda and handouts for the training;
 - The date and time the training was held; and
 - A copy of the attendance sheet from the training, including the name and title of each participant, along with a written assurance from the School principal that all required attendees were present during the training.
5. By **November 18, 2013**, the District will confirm in writing to OCR that any information related to disciplinary incidents in which the Student was involved at the School or on the bus during the 2012-13 school year will not be used detrimentally against the Student, including using the information as a means of any progressive discipline against the Student.

REPORTING REQUIREMENT: By **November 18, 2013**, the District will provide an assurance that the Student's educational files were reviewed and will provide copies of information that was removed from the Student's files related to any disciplinary incidents in which the Student was involved at the school or on the bus during the 2012-13 school year.

6. Within thirty (30) days of OCR's approval of the District's disability, sex, race, and retaliation policies and procedures as outlined in Item #1 above, the District will convene an IEP meeting for the purpose of determining whether any counseling or related social and emotional support services are necessary for the Student. The District will provide these services under the assumption that the Complainant's discrimination-based complaints filed against the District on approximately November 6, 2012, April 22, 2013, and May 13, 2013 have merit. The District's Title IX Coordinator and if separate, the District's Title VI Coordinator shall participate in this IEP team meeting. The District shall promptly notify the parents in writing of the services being offered at no cost to the parents and the proposed,

prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 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. Additionally, the parties will discuss any behavioral supports that may be appropriate to ensure the Student's success at school.

REPORTING REQUIREMENT:

- Within fifteen (15) calendar days of the IEP meeting, the District will submit documentation to OCR that includes the following:
 - A list of the individuals who attended the meeting (by name, title, and role in the meeting);
 - Documentation of the District's invitation to the parents to attend the IEP meeting and obtain their input;
 - A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
 - Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
 - Documentation of the Team's decisions regarding the type and number of hours of services that are appropriate for the Student and the bases for those decisions;
 - A plan for the prompt provision of services to the Student at no cost to the parents;
 - Documentation that the Complainant was notified in writing of the services offered by the District;
 - Documentation of the behavioral supports agreed-upon for the Student; and
 - Documentation that the District provided the Complainant with notice of the Student's and her rights and applicable procedural safeguards under Section 504 and Title II of the ADA.
- Within six (6) months of the IEP meeting, the District will submit documentation to OCR demonstrating that all of the services determined by the Team have been provided to the Student.

7. After OCR approves the District's policies and procedures as outlined in Item #1 above, the District will investigate all retaliation, race, disability, and sex-based discrimination complaints pursuant to the revised policies and procedures.

REPORTING REQUIREMENT: Six (6) school months after the District has begun implementing these new policies and procedures, the District will provide to OCR copies of investigations conducted at Marc T. Atkinson School pursuant to the revised policies and procedures discussed at Item #1 above.

8. On or before **January 2, 2014**, the District will convene an IEP meeting for the purpose of determining the compensatory services to which the Student may be entitled, developing a plan for providing those compensatory services to the Student, and developing a plan to ensure the Student has appropriate behavioral supports while at school. Specifically, the Team will consider what, if any, compensatory services, including educational, social, or emotional are owed to the student as a result of the Student's withdrawal from school on approximately XXXX. 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 at no cost to the parents and the proposed, prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 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. Additionally, the parties will discuss any behavioral supports that may be appropriate to ensure the Student's success at school.

REPORTING REQUIREMENT:

- Within twenty-one (21) calendar days of the IEP meeting, the District will submit documentation to OCR that includes the following:
 - A list of the individuals who attended the meeting (by name, title, and role in the meeting);
 - Documentation of the District's invitation to the parents to attend the IEP meeting and obtain their input;
 - A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
 - Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;

- 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;
 - A plan for the prompt provision of compensatory services to the Student at no cost to the parents;
 - Documentation that the Complainant was notified in writing of the compensatory services offered by the District;
 - Documentation of any behavioral supports agreed-upon for the Student; and
 - Documentation that the District provided the Complainant with notice of the Student's and her rights and applicable procedural safeguards under Section 504 and Title II of the ADA.
- Within six (6) months of the IEP meeting, the District will submit documentation to OCR demonstrating that all of the compensatory services determined 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 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972; and Title VI of the Civil Rights Act of 1964, 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 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 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act; Title IX of the Education Amendments of 1972; and Title VI of the Civil Rights Act of 1964, 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 the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the 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.

For Cartwright Elementary School District:

<u> /s/ </u>	<u> 11/4/2013 </u>
Name	Date
Title	