

## **Resolution Agreement**

### **Douglas County School District Case Number 08-14-1011**

In order to resolve the allegations in Case Number 08-14-1011, filed against Douglas County School District (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 (Agreement).

The Complainant alleged that the District at Fox Creek Elementary School (the School) discriminates against adults with disabilities by not providing accessible restrooms during sporting events held in the School gymnasium.

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.

The District elects to make all physical alterations to its facilities that are implemented to satisfy this Resolution Agreement in compliance with the standards contained in the 2010 ADA Standards for Accessible Design, which took effect on March 15, 2012.

### **RESOLUTION ACTION**

The District agrees to take the following actions:

1. The School provides access for the public to a single pair of gender specific restrooms near the gymnasium during sporting events. In each of the restrooms there is one toilet compartment, and the compartment is designed to be a wheelchair accessible toilet compartment. The coat hook located in the toilet compartments is not within an allowable reach range for either a side or forward reach (2010 Standards § 604.8.3).

Additionally, the toilet compartment of the boy's restroom is not configured such that the compartment door is diagonal or opposite of the water closet. In its current configuration the door is located directly in front of the water closet, which restricts maneuverability into the compartment (2010 Standards §§ 604.8.1.2 and 308).

The wheelchair accessible toilet compartments of restrooms designated for use during sporting events will conform to the 2010 Standards.

### **REPORTING REQUIREMENTS:**

- a) By May 1, 2014, the District will provide a detailed plan and schedule for how it will address the requirements in Term 1. In addition, the plan must indicate how the District will address the impact, if any, that alterations to the toilet compartment may or will have on other elements of the

restroom previously determined by OCR to be in compliance during two site visits (i.e. the relationship of compartment door swing on clear floor space at lavatories and urinals).

The need for additional reports to OCR will be determined based on the District's May 1, 2014 report and will be required until the District demonstrates the completion of Term 1.

- b) OCR will conduct at least one site visit prior to determining that the District satisfactorily completed Term 1.
- c) All steps will be completed by November 1, 2014.

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 documentation 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 08-14-1011 and will send a letter to the District stating that Case Number 08-14-1011 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 she is authorized to bind the District to this Agreement. This Agreement becomes effective the date of the signature below.

For Douglas County School District:

\_\_\_\_\_/s/\_\_\_\_\_  
Dr. Elizabeth Celandia-Fagen  
Superintendent

\_\_\_\_March 27, 2014\_\_\_\_\_  
Date