

## **RESOLUTION AGREEMENT**

### **Granite School District Case Number 08-14-1033**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced complaint against the Granite School District (“District”), pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35. Prior to the completion of OCR’s investigation, the District voluntarily agreed to resolve the allegations of this complaint pursuant to Section 302 of OCR’s Case Processing Manual (CPM). This resolution has been entered into voluntarily and does not constitute a finding or admission that the District is not in compliance with Section 504 and Title II and their implementing regulations. Accordingly, to ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the allegations of this complaint, the District voluntarily agrees to take the following actions:

#### **Remedial Action and Reporting**

1. By July 1, 2014, the District will provide to OCR a draft copy of a revised policy regarding the evaluation and placement of students with disabilities. The revised policy shall clarify that, even if a student is not eligible for special education services under the Individuals with Disabilities Education Act (IDEA), the District will consider the student for eligibility under Section 504 of the Rehabilitation Act of 1973, including the provision of “special education or related services”.

#### **REPORTING REQUIREMENT:**

By July 15, 2014, the District will submit to OCR, for review and approval, a copy of a draft revised policy.

2. Within 120 days of OCR’s approval of the revised draft policy in Term 1, the District will submit to OCR documentation demonstrating adoption and implementation of the approved policy by the Granite School District Board of Education.

#### **REPORTING REQUIREMENT:**

Within 10 days after adoption and implementation of the revised policy, the District will provide OCR with a confirmation letter stating that it has adopted the policy and listing all locations, including on the internet, where the District published the revised policy.

3. Within 10 days of the adoption and implementation of the approved policy, the District shall provide a memo to all District Principals, Vice Principals, Special Education administrators, Special Education teachers, and other individuals involved in the administration of Special

Education programs. This memo shall inform the recipients of the changes to the District's policy.

**REPORTING REQUIREMENT:**

Within 15 calendar days after the District has issued the memo to the identified recipients, the District shall provide OCR with a copy of the memo and a list of the names of all of the recipients and their job titles.

4. Within 90 days of the date of this agreement, the District shall complete a review of all current Section 504 plans in the District to determine whether meetings should be held to consider whether the student requires "special education or related services." Additionally, for every student the District determines may need special education or related services, the District shall convene meetings in accordance with the implementing regulation for Section 504 of the Rehabilitation Act of 1973 at §104.35 and §104.36.

**REPORTING REQUIREMENT:**

Within 15 calendar days after the District completed its review, the District shall provide OCR with a letter stating that it has reviewed all Section 504 plans in the district to determine whether meetings should be held to consider those students for the provision of "special education or related services." Additionally, the District shall provide OCR with a letter stating the number of Section 504 plans it reviewed, the number of meetings it held because of the agreement, and the number of students whose Section 504 plans were modified to include special education or related services. Also, the District shall provide a list of all students on Section 504 plans, broken down by school, detailing the decisions and actions the District took as a result of Term 4 of this Agreement.

5. Within 10 days of the adoption and implementation of the approved policy, the District shall provide a letter to all parents/guardians of students who are on Section 504 plans in the District, explaining that it has changed its policy regarding the evaluation and placement of students with disabilities. The letter shall state that, even if a student is not eligible for special education services under the Individuals with Disabilities Education Act (IDEA), the District will consider the student for eligibility under Section 504 of the Rehabilitation Act of 1973, including the provision of "special education or related services." Additionally, the letter will explain that it will review all current Section 504 plans to determine whether the District should reconvene meetings to consider those students for special education or related services under Section 504. Additionally, the letter will invite the parents/guardians to contact their school/district to request a meeting if the parents/guardians feel the student requires special education or related services, even if a meeting had been held recently.

**REPORTING REQUIREMENT:**

Within 15 calendar days after the District has mailed the letter, the District shall provide OCR with a copy of the letter and affirm that it has mailed the letter to all parents/guardians of student who are on Section 504 plans in the District.

6. By August 1, 2014, the District will convene a Section 504 meeting and invite the Complainant to the meeting. The purpose of the meeting is to determine whether the Student requires compensatory services for the alleged failure to timely consider the Student for a Section 504 plan.

#### REPORTING REQUIREMENT:

Within 15 days after the meeting, the District will provide OCR with a statement that it has complied with Term 6 of the Agreement. Additionally, the District will provide OCR with a copy of the meeting notes. If the Complainant declines the invitation to the meeting, the District shall provide a copy of the invitation to the meeting and any notes and records of communications with the Complainant showing the Complainant's declination.

Should the District determine that no compensatory education or other remedial services were necessary, the District will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations, and notify the District when it has completed this review.<sup>1</sup>

7. After OCR has reviewed and accepted the District's determination the District will take steps to implement the compensatory services, if any, agreed upon by the Section 504 team.

#### REPORTING REQUIREMENT:

Within 90 days from the date of OCR's acceptance of the proposed compensatory services (if any) or remedial measures, the District will provide documentation that it has provided or is in the process of providing the compensatory services or remedial measures. For compensatory services and remedial measures that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory

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<sup>1</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP or Section 504 team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the team described in provision 6 proposes compensatory services or remedial actions *and* those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the District of its concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.

services and remedial measures are being provided as specified, and the District will provide an additional letter to OCR confirming all compensatory services and remedial measures have been provided in full.

8. Within 15 days of the date of this Agreement, the District will provide an email to all Cottonwood High School staff explaining the District's obligation to timely respond to a parent's request to consider the student for eligibility under an IEP or Section 504 plan and the obligation to provide the parents with notice of their due process rights.

**REPORTING REQUIREMENT:**

Within 15 calendar days after the District sent the email, the District shall provide OCR with a copy of the email and a letter affirming it has complied with Term 7 of the Agreement.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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 the Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 which were at issue in this case.

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 regulation implementing Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 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.

/s/

5/21/2014

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For Granite School District

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Date