

Resolution Agreement
Kyrene School District
Complaint Number 08-14-1075

In order to resolve the allegations in Case Number 08-14-1075 filed against the Kyrene School District (District), the District agrees to implement the following Resolution Agreement. This complaint allegation was 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 and 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, which prohibit discrimination on the basis of disability in education programs that receive Federal financial assistance from the Department.

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.

Service Animal Policy

1. By November 1, 2018, the District will revise its service animal policy to state:
 - a. Under the Americans with Disabilities Act (ADA), a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. Reasonable modifications will be made in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
 - b. Examples of such tasks may include, but are not limited to: assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.
 - c. District staff shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. District staff may ask (1) if the animal is required because of a disability and (2) what work or task the animal has been trained to perform. District staff shall not require

documentation, such a proof that the animal has been certified, trained or licensed as a service animal.

- d. Generally, District staff may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
- e. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a school's facilities where members of the public, participants in the services, programs or activities, or invitees, as relevant, are allowed to go.
- f. A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).
- g. A person with a disability cannot be asked to remove his or her service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, District staff must offer the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.
- h. Questions about this policy may be directed to [Name or Title of Individual (or both), Business Address, Phone & Email, any webpage for individual or individual's office].
- i. Complaints alleging any violation of this policy or noncompliance with its provisions will be governed by the District's discrimination complaint procedures which can be found at [specific title/number of policy and web address at which it may be found].

REPORTING REQUIREMENT: By November 1, 2018, the District will submit to OCR, for review and approval, a copy of its revised service animal policy.

2. Within 30 days of OCR's approval of the revised service animal policy, the District will adopt, implement, and publish the revised service animal policy on the District's and each school's website. The District will include a link to the revised service animal policy on each school's website.

REPORTING REQUIREMENT: Within 60 days of OCR's approval of the District's revised service animal policy, the District will provide OCR documentation that it has (1) adopted and implemented the revised policy and (2) a list of websites where the District has published the revised policy.

3. Within 10 days of the date on which the District's service animal policy is published, the District will send an e-mail to all District staff notifying them that the District's service animal policy has been revised and is posted on the District's and each school's website; is available in the main District office and in each school's front office, and provide links to the service animal policy. The e-mail will include the name and contact information for the District's ADA Coordinator or designee should staff have any questions.

REPORTING REQUIREMENT: Within 60 days of OCR's approval of the District's revised service animal policy, the District will provide documentation to OCR establishing it has complied with Term 3, including a copy of the e-mail sent to District staff along with a distribution list of the recipients.

Open Enrollment Policies and Procedures

4. By November 1, 2018, the District will review and revise, as necessary, its open enrollment procedures to ensure that when a student with a disability applies, the student does not experience an undue delay in receiving notice of an admission decision as compared to non-disabled students. The District will also clarify its open enrollment procedures for students transitioning from elementary school to middle school.

REPORTING REQUIREMENT: By November 1, 2018, the District will submit to OCR, for review and approval, the District's revised open enrollment policies and procedures.

5. Within 30 days of OCR's approval of the revised policies and procedures in Term 4, the District will adopt, implement, and publish the revised procedures on the District's website and school websites and in the informational material provided by the District regarding the upcoming open enrollment/school choice program application period. All above-described publication methods shall include a statement notifying families the District has made changes to its open enrollment procedures, an invitation for qualified students with disabilities to apply for open enrollment, and the email address and phone number for a District administrator families may contact with questions or concerns regarding a past application for open enrollment or for more information on the changes to the open enrollment program.

The District will also ensure that all information provided on its websites regarding open enrollment is consistent with its OCR-approved open enrollment policies and procedures.

REPORTING REQUIREMENT: Within 60 days of OCR's approval of the District's revised procedures in Term 4, the District will provide OCR documentation that it has (1) adopted and implemented the revised procedures, (2) a list of websites where the District has published the revised procedures and notice, and (3) informational material provided as described above.

6. Within 10 days of the adoption and implementation of the approved open enrollment policies and procedures, the District will send an e-mail to all District Principals, Assistant Principals, Special Education administrators, Special Education lead teachers and other individuals involved in the administration of Special Education programs, and any other individuals responsible for the consideration of open enrollment applications informing the recipients of the changes to the District's policies and procedures

regarding open enrollment students and providing them with a copy of the letters developed in accordance with Term 5.

REPORTING REQUIREMENT: Within 60 days of OCR’s approval of the District’s revised procedures in Term 4, the District will provide documentation to OCR establishing it has complied with Term 7, including a copy of the e-mail sent to District staff along with a distribution list of the recipients.

- 7. By October 1, 2019 (for school year 2019-2020) the District will provide OCR documentation demonstrating compliance with its revised and approved open enrollment policies and procedures.

REPORTING REQUIREMENT: By October 1, 2019 (for the school year 2019-2020) the District will provide OCR a list of all students by name who applied through the District’s open enrollment program for the respective school year. For each student, the District will indicate (1) the school applied to; (2) the grade applied for; (3) whether the student has a disability; (4) the date the application was submitted; (5) the date the application was accepted and/or finally accepted or denied; (6) the date the District notified the applicant of the acceptance or denial; and (7) for any denials, an explanation of the reason for the denial. The District’s data shall include **all** schools within the District.

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 regulation implementing Section 504 of the Rehabilitation Act of 1973 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. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this complaint.

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 sixty (60) calendar days to cure the alleged breach.

For Kyrene School District:

_____/S/	9/12/18
Name	Date
Title	