

Resolution Agreement
Dysart Unified School District
OCR Case Number 08-14-1090

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint against the Dysart Unified School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the U.S. Department of Education, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by public entities.

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 and resolve the allegations of this complaint. 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.

This Agreement has been entered into voluntarily by the District and does not constitute an admission by the District that it is not in compliance with Section 504 or Title II or their implementing regulations.

1. By **October 31, 2014**, after providing proper written notice to the Student's parent, a group of knowledgeable persons, including the parent, will convene as an IEP Team to:
 - a. Evaluate and determine the amount, level, and manner of compensatory education the District will provide to the Student in order to address the lack of a free appropriate education from December 4, 2013, through March 17, 2014 (compensatory education will include counseling services to assist with providing a remedy for any lack of appropriate services for her disabilities); and
 - b. Conduct a review of, and if needed, revise the Student's current IEP to provide regular or special education and related aids and services appropriate to address the Student's mental health needs, attendance needs, and vision concerns.
 - c. The IEP Team will review and document: the Student's academic losses in the 2013-2014 school year; present levels of functioning; final grades for the 2013-14 school year, paying special attention to the grades from the dates identified here; and input from the parent.

- d. The IEP Team will consider and determine whether additional evaluation is required at no expense to the parent to complete this item.

The District will provide the Student's parent notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing. This item will be completed as soon as possible but no more than **60 days** after written notice to the Student's parent.

Reporting Requirement 1:

Within **five school days** of completing the requirements of this item, the District will provide OCR written documentation that it has completed this item. Documentation will include:

- a. A sign in sheet of attendees including titles;
 - b. Documentation of the record of review of the Student's academic losses; present levels of functioning; final grades for the 2013-14 school year, and input from the Complainant;
 - c. A detailed explanation of compensatory education that will be provided to the Student,
 - d. The name(s) of the service provider(s);
 - e. Time frames for the provision of compensatory education to include start dates and ending dates that will be provided to address the Student's ongoing chronic illness, disabilities, and any subsequent attendance needs;
 - f. A detailed explanation of how the IEP team reviewed and revised the Student's current IEP to appropriately address the Student's mental health needs, attendance needs, and vision concerns;
 - g. A copy of the Student's compensatory education plan; and
 - h. A copy of the Student's revised IEP, if applicable.
2. The District understands that OCR will, prior to approving the District's decision and plan for providing the proposed compensatory education, review the documentation 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. The District will consider and respond to any feedback from OCR with respect to the compensatory education plan. Within **five school days** of OCR's acknowledgement that Item 1 is satisfied, the District will initiate implementation of the Student's compensatory education plan.

Reporting Requirement 2:

By a date yet to be determined (based on the time frames in the compensatory education plan and feedback from OCR), the District will provide documentation to OCR of the dates, times

and locations that compensatory services were provided, a description of what was provided, and the name(s) of the service provider(s).

3. By **September 26, 2014**, the District will reimburse the Complainant \$XXX for the out of pocket expenses and mileage incurred to complete the medical evaluations at the XXX Clinic, XXX Medical Center, XXX Hospital as requested by the District in the fall of 2013 and at the March 4, 2014 meeting.

Reporting Requirement 3:

By **September 30, 2014**, the District will provide written verification that it has satisfied this item.

4. The District will notify OCR of the name, title, and contact information of its Section 504 Coordinator and will take steps to ensure that this information is provided in the School Handbook and on the District's website.

Reporting Requirement 4:

By **September 30, 2014**, the District will provide documentation, including website addresses, confirming that it has satisfied this item.

5. Pursuant to District Board Policy 1.3 and District Board Procedures 7.1 and 10.1, the Superintendent or designated administrator will conduct an investigation of the discrimination complaints filed with the District by the parents on or about February 4, 2014, February 6, 2014, February 12, 2014, and in writing on February 17, 2014. In addition to any allegations identified (upon review of the February 17th letter), the investigator will specifically investigate the following allegations raised by the parents:
 - a. Whether XX discriminated against the Student by calling her an “attention seeker” and a “liar”.¹
 - b. Whether XX discriminated on the basis of disability by requiring the parents to obtain a neuropsychology evaluation in order for the Student to be placed back on a Section 504 plan.
 - c. Whether XX discriminated against the Student on the basis of disability by singling her out in front of peers twice when the Student experienced two mental health episodes in class and by refusing to allow the Student to go to the nurse's office during an episode.
 - d. Whether XX discriminated against the Student on the basis of disability by scolding the Student when she was seeking medical assistance and then sending the Student back to class without medical assistance.
 - e. Whether XX discriminated on the basis of disability against the Student on or about February 4, 2014, by singling her out and not allowing her to associate with another student.

¹ For this allegation, the investigation will include a review of the notes concerning the student kept by the health office at XXXXXX.

- f. Whether XX discriminated against the Student on the basis of disability by repeatedly refusing to evaluate the student for a Section 504 Plan until the parents provided medical documentation of her diagnoses.
- g. Whether XX and XX discriminated against the parents on the basis of disability or retaliated against the parents for their advocacy on behalf of the Student by referring the Student to XX Court.
- h. Whether XX, XX, or XX discriminated against the Student on the basis of disability by attempting to pressure the parents to remove the Student from the District to an on-line program.

Reporting Requirement 5:

By **October 31, 2014**, the District will provide OCR the District's written investigative report including a list of all witnesses interviewed, findings, and corrective action taken.

- 6. The District will revise the following Board of Education Policies and Procedures:
 - a. (i) Section 9.12, related to the evaluation and placement of students with disabilities under Section 504, to include language that states that parents or guardians will not be required to obtain a medical evaluation of a student or provide medical documentation concerning the student before initiating an evaluation or in order to obtain an evaluation by the District pursuant to 34 C.F.R Section 104.33, and Section 104.35; (ii) Section 9.12, the fifth paragraph of the section (in the definition of a student with a disability), the parenthetical that states "including learning" to state in its place "which may include learning," and (iii) the last sentence in the sixth paragraph modified to say "However, if their physical or mental impairments substantially limits one or more major life activities, they are disabled within the meaning of Section 504."
 - b. Sections 1.3, 10.1, 10.33, 10.33.1, 11.10, 11.11 and additional Board of Education Procedures 7.1 to ensure that every policy consistently identifies the Compliance Officer or Compliance Officers in all matters that pertain to equal opportunities and complaints of discrimination and that all complaints of discrimination whether initiated by a student, a staff member, a parent, or a member of the community, whether the complaint is initiated in writing or verbally, (and whether it is against a student, a staff member or a third party) will be promptly and equitably investigated by the Compliance Officer.
 - c. Sections 10.17, 10.19 and the Court Unified Truancy Suppression Program (CUTS), Chronic Illness Procedure including language in the School Handbook to indicate that the District will notify parents of the option to utilize the District's Chronic Illness Policy to meet the attendance needs of students with disabilities before notification of truancy issues under the CUTS Program.

Reporting Requirement 6:

By **September 30, 2014**, the District will submit to OCR for approval its draft revised Board of Education Policies and Procedures identified in this item.

7. The District will consider and respond to any feedback from OCR with respect to the draft revised Board of Education Policies and Procedures. Within **45 days** of OCR's approval of the revised policies, the District will adopt and publish its revised Board of Education Policies and Procedures following its normal path for adoption and publication.

Reporting Requirement 7: Within **10 school days** of adoption and publication of the revised its revised Board of Education Policies and Procedures, the District will provide OCR written verification that the policies and procedures have been adopted and published.

8. The District will prepare training specifically for presentation to staff at XXX including administrators and any other School personnel charged with participating in Section 504 evaluations and placement. Specifically, the District will:
 - a. Draft a training package on the policies and procedures referenced in this Agreement and specific training on understanding and meeting the needs of students with mental health disabilities, and
 - b. Identify the trainer or trainers that the District proposes with the name and credentials of each. The credentials will include a curriculum vitae demonstrating that the trainer possesses experience in the areas identified in this training package.

Reporting Requirement 8:

By **September 30, 2014**, the District will provide documentation satisfying this item.

9. The District will consider and respond to any feedback from OCR with respect to the draft training package and identification of the trainer(s). Within **60 days** of OCR's approval of both, the District will provide the training to the identified staff at XXX. The District will provide training to all school principals by the end of the 2014-2015 school year.

Reporting Requirement 9:

Within **10 days** of conducting the training, the District will provide OCR copies of the sign-in sheets from the training and written verification that all identified individuals at XXX completed the training.²

10. By **September 30, 2014**, the District will expunge from the Student's school records all documents related to truancy charges in School Year 2013-2014.

² The District will confirm that the training specifically included XX, XX, and XX who were directly involved in the allegations of this case.

Reporting Requirement 10:

Within **five school days** of completing the requirements of this item, the District will provide OCR written documentation that it has completed this item. The documentation will include a notarized statement indicating that all of the applicable documents have been removed from the Student’s school records.

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 this Agreement, if necessary, 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 regulations implementing Section 504, 34 C.F.R. §§ 104.7(b), 104.33, 104.34, 104.35 and 104.61, and Title II, at 28 C.F.R. §§ 35.107(b), 35.130(a) and (b)(1)(iii) and 35.134, 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 regulations implementing Section 504, 34 C.F.R. §§ 104.7(b), 104.33, 104.34, 104.35 and 104.61, and Title II, at 28 C.F.R. §§ 35.107(b), 35.130(a) and (b)(1)(iii) and 35.134, 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 the Dysart Unified School District:

/s/

9/10/2014

Gail Pletnick, Ed.D
Superintendent
Dysart Unified School District

Date: