

Resolution Agreement

Canon City Schools OCR Case No. 08-14-1106

In order to resolve a potential compliance concern in Case Number 08-14-1106, filed against Canon City Schools (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. § 794 and its implementing regulation at 34 C.F.R. part 104 and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, the District agrees to implement the following Resolution Agreement.

During the course of OCR's investigation, before OCR had made any findings regarding this potential compliance concern, 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 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 wrongdoing, nor shall it be construed as such.

1. By August 18, 2014, the District will provide the Student with the opportunity to redo his science project from the 2013-14 school year XXXX. The finished science project will be evaluated by an impartial XXXX grade teacher. Following this review, the District will consider whether the Student's science grade should be changed on his report card in light of the finished science project. In addition, a copy of this report card, reflecting any changes to the science grade, will be submitted to OCR and the Complainant.

REPORTING REQUIREMENT 1:

- By September 9, 2014, the District will document to OCR that it provided the Student with the opportunity to redo his science project from the 2013-14 school year in which he received a zero grade, and that it provided the Complainant and Student with a rubric for the science project in order to allow for revision and resubmission.
 - Within twenty-one (21) days of the Student's submission of the revised science project, the District will document to OCR that an impartial fifth grade teacher evaluated the revised science project, and document that the Student's Science grade on the report card was reviewed to consider whether the science project's grade warranted updating the report card's Science grade. In addition, the District will document to OCR that it sent a copy of the Student's report card to the Complainant if revised, and will provide OCR with a copy of the final 5th grade report card.
2. By August 15, 2014, the District will revise, if necessary, and provide OCR with its draft policies and procedures for the timely identification, referral, evaluation, and placement of students who need or are believed to need special education or related services due to a

disability and the subsequent implementation of those services. OCR will review the draft policies and procedures to ensure that these are consistent with 34 C.F.R. §§ 104.32-36.

REPORTING REQUIREMENT 2:

By August 15, 2014, the District will provide for OCR's review and approval a copy of the draft policies and procedures.

3. Within 30 days of OCR's approval of the draft policies and procedures in Paragraph 2, the District will: 1) adopt and implement the OCR-approved policies and procedures; and 2) provide written notice to all pertinent District staff of the content, requirements, and application of the newly established policies and procedures.

REPORTING REQUIREMENT 3:

Within 45 days of OCR's approval of the draft policies and procedures in Paragraph 2, the District will document to OCR that it has adopted and implemented the OCR-approved policies and provided written notice to all pertinent District staff.

4. Within 30 days of OCR's approval of the draft policies and procedures in Paragraph 2, the District will draft for OCR's approval in-service training materials and identify one or more persons knowledgeable about Section 504 and Title II who will provide the training. The training information will include, at minimum:
 - A review of the District's responsibility to comply with Section 504 and Title II, which state that educational institutions under OCR's jurisdiction may not discriminate against any person on the basis of disability;
 - A review of the policies and procedures in Paragraph 2 approved by OCR in Paragraph 2 of this Agreement;
 - The District's responsibility to provide students with disabilities a free appropriate public education (FAPE), based on Section 504's FAPE requirements at 34 C.F.R. §§ 104.32–36, including the requirement at 34 C.F.R. § 104.32 that the District locate and identify all qualified students with disabilities and the requirement at 34 C.F.R. § 104.33(a) and (b) that the District provide FAPE to all of its qualified students with disabilities, regardless of the nature or severity of the disability. An appropriate education is defined as the provision of regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met, and that are developed in accordance with the procedural requirements of 34 C.F.R. §§ 104.34–104.36. Further, the training should explain that failing to properly implement all of the provisions in a student's IEP or Section 504 plan constitutes a denial of FAPE;
 - The District's responsibility to provide a FAPE to students with ADD and ADHD, including how to identify such students who may qualify for special education or related services, the requirement of timely evaluation, how to determine the special

education or related services that are appropriate for those students, and the District's obligation to fully implement the students' IEPs or Section 504 plans;

- The prohibition in Title II and Section 504 against retaliation, based on 28 C.F.R. § 35.134 and 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e), including: (a) what constitutes a protected activity (protected activities include filing a complaint, participating in an investigation, participating in any manner in an investigation, and asserting a right, such as requesting an IEP or 504 Plan, under Section 504 and Title II), (b) the prohibition on adverse actions (adverse actions include intimidation, retaliation, threats, coercion, and discrimination) in response to those protected activities, and (c) recognizing the warning signs of retaliation and intimidation and how their actions might be perceived by individuals engaging in protected activities;
- Identification of the District's Section 504 Coordinator and an explanation of how the District's Section 504 Coordinator can assist administrators, teachers, and staff with questions or concerns related to Section 504; and
- A statement by the District that it does not tolerate disability discrimination or retaliation, that such conduct is prohibited by law, and that effective action, including disciplinary action where appropriate, will be taken.

REPORTING REQUIREMENT 4:

Within 30 days of OCR's approval of its draft Section 504 FAPE Procedures, 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.
5. Within sixty (60) days of OCR's approval of the training materials, the District will schedule and conduct in-service training. Attendees at this training will include all administrators, special education teachers and staff at Washington Elementary School, and the Student's teachers from the 2013-14 school year. The District shall annually conduct the in-service training for each successive school year for the next two years or until OCR closes the monitoring of this Agreement, whichever occurs first.

REPORTING REQUIREMENT 5:

Within ten (10) 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 person required to attend, the name and signature of the participants, along with a written assurance that all required attendees were present during the training.

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 Section 504 and Title II, 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 recipient 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 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.

For Canon City Schools:

_____/s/_____
Dr. Robin Gooldy
Superintendent, Canon City Schools

08/07/2014
Date