

## **Resolution Agreement**

### **St. Vrain Valley School District RE-1J OCR Case Number 08-14-1107**

In order to resolve potential compliance concerns in Case Number 08-14-1107, filed against St. Vrain Valley 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. § 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, and Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. part 100, the District agrees to implement this 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, Title II, and Title VI. 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.

Prior to our completion of an investigation of the allegations that gave rise to this complaint, the District requested that an Agreement be negotiated to ensure it provides compliant accessible seating and accessible routes within its classrooms and lunchroom at Trail Ridge Middle School (School). The District will also ensure that English language learner (ELL) service decisions for ELL students with disabilities include persons knowledgeable about second language acquisition and that ELL language service needs are considered and documented at ELL IEP and 504 placement meetings. Specifically:

1. The District will take steps to ensure that no qualified individual with a disability is excluded from participation in, or denied the benefits of District services, programs, or activities at the School; specifically that the School's classrooms and lunchroom provide designated accessible seating and accessible routes within its classrooms. The District will comply with the 2010 ADA Standards for Accessible Design effective on March 15, 2012.
  - The route within the School's classrooms does not provide access from front to back and to any area where supplies for the classroom are kept. The District will provide at least one accessible route within each classroom, and to the maximum extent feasible, coincide the accessible route with the route for the general public. The accessible route must have a minimum clear width of 36 inches, or a minimum clear width of 42 inches if there is a turnaround obstruction less than 48 inches wide; have passing spaces at least 60 inches by 60 inches at least every 200 feet; have a minimum clear headroom of 80 inches; and have a surface that is firm, stable, and slip resistant. Standards §§ 402 & 403.5 and figures 403.5.1 & 403.5.2.

- The School's student classroom desks, computer carrels, science tables, and lunchroom tables are inaccessible because the quantity of accessible seating provided is fewer than 5% of the total number available to the general public at the School. The District will provide accessible seating for at least 5% of total available seating at the School for each type of student classroom desks, computer carrels, science tables, and lunchroom tables. Standards § 226.
- The student classroom desks, computer carrels, science tables, and lunchroom tables at the School are inaccessible because the chairs are attached to the student classroom desks, the computer carrels do not have sufficient knee clearance and height, the science tables do not have sufficient width (for 2 persons), and the lunchroom tables have attached seats. The District will provide accessible student classroom desks, computer carrels, science tables, and lunchroom tables, and these will be on an accessible route at least 36 inches wide. The District will ensure that the student classroom desks, computer carrels, science tables, and lunchroom tables have clear floor space of 30 inches wide by 48 inches deep, knee clearance of at least 27 inches high by 30 inches wide by 19 inches deep, and a writing surface between 28 and 34 inches above the finished floor at the School. Standards §§ 306, 402, 403.5, & 902.

#### REPORTING REQUIREMENTS:

- By November 1, 2014, the District will provide a detailed schedule for how it will address the requirements in term 1. Please include purchasing time frames for the furniture and a policy related to how the District will ensure accessible seating is available in the appropriate rooms to meet students' individual schedules and if additional seating purchases are required in the future.
  - Additional reports will be determined based on the District's November 1, 2014 report until the District demonstrates the completion of term 1.
  - Site visit(s) will be scheduled prior to OCR determining the District has satisfactorily completed Agreement Term 1.
2. The District will ensure that all ELL students with disabilities receive direct ELL services and special education services unless an individualized determination is made using the placement process procedures required by 34 C.F.R. § 104.35(c) that it is inappropriate to provide dual services (ELL and special education services) due to the documented nature of the individual language and special education needs of the student. Decisions about the content of a student's Individualized Education Program or Section 504 Plan (IEP), including the provision of ELL services and whether an ELL student with a disability can be exited from direct ELL services, must be made by the student's IEP Team (including the student's parents). These decisions cannot be made unilaterally by a single teacher or other school employee outside of the IEP process. IEP Teams for ELL students with disabilities must include persons with expertise in second language acquisition. An IEP Team must make the determination of whether to exit/reclassify from ELL services or provide indirect ELL services to ELL students with disabilities on a case-by-case basis in light of the particular language and disability needs of an ELL student with a disability. The District will document consideration of language and the participation of ELL teachers in this process.

**REPORTING REQUIREMENTS:**

- By November 1, 2014, the District will provide OCR with a copy of its proposed draft revisions to its English Language Acquisition (ELA) Plan and Special Education policies and procedures for OCR's review.
  - Within 30 days of OCR's approval of the revised ELA Plan and special education policies and procedures, the District will adopt the approved policies and procedures.
  - Within 30 days of the adoption of the approved policies and procedures, the Superintendent will issue a memorandum to its School and District employees and administrators of the approved policies and procedures and their responsibility to implement the policies and procedures. The District will provide OCR with a signed copy of the memorandum signed by the Superintendent and issued to relevant District and School personnel.
3. The District will use the approved procedures described in Term 2 to screen the records of ELL students with disabilities at the School who are receiving indirect ELL services, no ELL services or have been exited/reclassified from ELL status, to ensure that the conditions under which the students were placed met the safeguards of paragraph 2's approved procedures. For each ELL and former ELL student at the School in such placements, the District will maintain documentation supporting that ELL language needs were appropriately documented and considered in the placement decisions and that ELL teachers and parent(s) were part of the IEP decisionmaking determination regarding ELL services to ELL students with disabilities. Whenever it cannot be determined that language and ELL services were appropriately documented as considered, or that an ELL teacher and parent(s) was not part of the determination process to provide indirect ELL services or to stop ELL services, the IEP or 504 team will reconvene to review, and modify where appropriate, the placement decisions, including the necessity to resume direct ELL services.

**REPORTING REQUIREMENTS:**

- By November 1, 2014, the District will provide OCR with a list of the ELL and former ELL students with disabilities currently enrolled at the School.
4. By January 30, 2015, the District will provide OCR with copies of IEPs, Section 504 Plans, and meeting notes and other applicable documentation supporting the implementation of the screening and subsequent determinations required by Item 3.

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 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, its implementing regulation at 34 C.F.R. §§ 104.21-104.23 & 104.35; 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. §§ 35.130 & 35.149-35.151; and Title VI of the Civil Rights Act of 1964, and its implementing regulation at 34 C.F.R. § 100.3(b) which were at issue in this case.

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 regulation implementing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, its implementing regulation at 34 C.F.R. §§ 104.21-104.23 & 104.35; 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. §§ 35.130 & 35.149-35.151; and Title VI of the Civil Rights Act of 1964, its implementing regulation at 34 C.F.R. § 100.3(b), 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 St. Vrain Valley School District RE-1J:**

/s/

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Dr. Don Haddad  
Superintendent

9/5/2014

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Date