

## RESOLUTION AGREEMENT

### East Valley Institute of Technology OCR Case Number 08-14-2151

East Valley Institute of Technology (EVIT) enters into this Agreement to resolve the allegations in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by EVIT. EVIT assures the Office for Civil Rights (OCR) that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 ("Section 504"), as amended, 29 United States Code (U.S.C.) Section 794, and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, and Title II of the Americans with Disabilities Act of 1990 ("Title II"), 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

#### I. Memo to Staff

- a. Within thirty (30) calendar days of this Agreement being signed, EVIT will submit to OCR for review a draft memo to be sent to all staff. The memo will include, at a minimum, a description of EVIT's legal obligations to:
  - i. provide qualified students with disabilities with a free appropriate public education (FAPE);
  - ii. fully implement students' Section 504 plans and individualized education programs (IEPs), including all accommodations;
  - iii. the name(s), title(s) or position(s), phone number(s), and email address(es) for staff designated to respond to staff questions and concerns;
  - iv. not counsel out enrolled students with disabilities because of their disabilities;<sup>1</sup> and
  - v. follow Section 504 evaluation and placement procedures, if it believes an enrolled student needs additional evaluations or services in order to receive FAPE.
- b. EVIT will promptly and fully address OCR's feedback, if any, until EVIT receives OCR's final approval of the memo.
- c. Within fifteen (15) calendar days of receiving OCR's final approval of the memo, EVIT will disseminate the approved memo to all staff.
- d. Within fifteen (15) calendar days of disseminating the memo pursuant to Term I(c), the School will submit to OCR documentation showing that it fulfilled Term II(c).<sup>2</sup>

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<sup>1</sup> Counseling out is recipient action that is prohibited because it is designed to urge, intimidate, or coerce the student on the basis of disability to withdraw or transfer from the school, perhaps to the school of another recipient.

<sup>2</sup> *e.g.*, emails showing the recipients and a document with signatures from staff attesting to their receipt of the memo

II. Staff Training

- a. EVIT will continue to provide the annual training required by Term VI of the combined Resolution Agreements for OCR case numbers 08-09-2043, 08-12-2181, 08-13-1204, 08-13-2056, and 08-13-2074.
- b. By August 31, 2019, EVIT will submit to OCR a report showing that the training was provided “prior to the beginning of” the 2019-2020 school year, as required by Term VI.
- c. EVIT will promptly and fully respond to OCR’s concerns, if any, until OCR considers them resolved.

III. Ongoing Monitoring

- a. By June 28, 2019, EVIT will submit to OCR a report about any complaints – including oral and written complaints, and including informal and formal complaints – of EVIT failing to implement a student’s IEP or Section 504 plan, or EVIT counseling out a student with a disability. The report will cover the time period of October 1, 2018 to May 31, 2019. The report will include:
  - i. a copy of any written complaints and a detailed description of any oral complaints; and
  - ii. a detailed description of EVIT’s responses to complaints, if any, and a copy of all related documentation.
- b. EVIT will promptly and fully respond to OCR’s concerns, if any, until OCR considers them resolved.

EVIT 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. Sections 100.9-10), or judicial proceedings to enforce this Agreement, OCR will give EVIT written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

EVIT understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, EVIT understands that, during the monitoring of this Agreement, if necessary, OCR may visit EVIT, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether EVIT has fulfilled the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations. Upon completion of the obligations under this Agreement, OCR will close this case.

**For East Valley Institute of Technology:**

/s/  
Sally E. Downey, Superintendent

12/10/18  
Date