

Voluntary Resolution Agreement

Cherry Creek School District OCR Case Number 08-15-1075

In order to fully resolve an allegation in Case Number 08-15-1075 filed with the U.S. Department of Education, Office for Civil Rights (OCR) against Cherry Creek School District (District) pursuant to Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, and their implementing respective regulations at 34 Code of Federal Regulations Part 104 and 28 C.F.R. Part 35, the District agrees to take the actions outlined in this Resolution Agreement.

Prior to OCR's completion of its investigation and before OCR had made any findings, the District indicated its desire to voluntarily enter into an agreement to resolve the complaint allegation and related issues to ensure compliance with Section 504 and Title II¹. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint allegation 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 agreement's remedies align with the allegations.

ACTIONS

The District voluntarily agrees to take the following actions:

1. By xxxxxxx, 2015, the District will review and revise the District's XXXX Policy and Procedures to ensure that students with disabilities receive special education and related aids and services consistent with the student's Individual Education Program or Section 504 plan during participation in the XXXX program. Specifically, the revised policies and procedures will ensure that:
 - a. Decisions regarding XXXX services will be made consistent with the requirements of 34 C.F.R. Section 104.35 and based on an individualized assessment of the student's current medical and disability-related needs; and
 - b. The amount and type of services to be provided for students with disabilities will not be predetermined by any set limitation on the number of hours of educational services for students except to the degree that the limitation is consistent with the number of hours in an ordinary school day within the District.
2. The District will provide proposed revisions to the District's XXXX Policy and Procedures to OCR for our consideration and approval by xxxxxx, 2015.

Reporting Requirement Agreement Terms 1 through 2: The District will provide documentation to OCR of completion of Terms 1-2 in its initial monitoring report due to OCR xxxxxx 2015.

3. Within ten days of OCR's approval of revisions to the District's XXXX Policy and Procedures, the District will adopt the revised Procedures. The District will also provide written notice to the complainant of the revisions to the District's XXXX Policy and Procedures.
4. The District will provide OCR with documentation demonstrating notification to the complainant of revisions made to the Procedures pursuant to Agreement Term 3.

¹ Because Section 504 has specific requirements regarding free and appropriate public education (FAPE) and Title II provides for no lesser protection than that provided by Section 504, this Agreement refers to Section 504 in addressing FAPE requirements.

Reporting Requirement Agreement Terms 3 and 4: The District will provide documentation demonstrating completion of Terms 3 and 4 to OCR in its monitoring report due to OCR xxxxxx, 2015.

5. The District will provide training to District Special Education Coordinators, Section 504 Coordinator(s), and other staff responsible for implementing the District's XXXX Policy and Procedures. The training will instruct staff on the District's obligation to ensure students with disabilities continue to receive a free appropriate public education pursuant to 34 C.F.R. §§ 104.33 and 104.35 while participating in the XXXX Program. The training will also address the appropriate implementation of the District's XXXX Program procedures, including who to contact for further information.
 - a. Prior to conducting the training, the District will provide OCR with the draft training materials and the identity and qualifications of the trainer for OCR's review and approval.
 - b. Within 90 days of receiving OCR's approval of the training materials, the District will conduct the training.
6. The District will provide OCR with documentation demonstrating that all relevant staff received the training required in term 5 above. Documentation to be provided to OCR shall include a copy of the training agenda, materials, and sign-in sheet or other similar record documenting staff attendance and participation.
7. Within 10 days of completing the training, the District will issue a training Memoranda to all staff not identified to receive the training described in term 5 above. The Memoranda will provide a summary of changes to the XXXX Policy and Procedures and identify who to contact for further information.
8. The District will provide OCR with documentation demonstrating delivery of the training Memoranda to staff required by term 7 above.

Reporting Requirement Agreement Terms 5 through 8: The District will provide to OCR documentation of completion of Terms 5 and 8 in its monitoring report due to OCR xxxxxx, 2015.

MONITORING AND REPORTING

9. By xxxx, 2015, the District shall provide to OCR an initial monitoring report addressing Agreement terms 1 and 2 above, including supporting documentation and describing the steps the District has taken to ensure implementation of this Agreement.
10. The District shall comply with any additional OCR requests for monitoring reports as necessary until the District demonstrates full compliance with all terms of this Agreement.

ADDITIONAL ACKNOWLEDGEMENTS

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.

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 and Title II of the Americans with Disabilities Act of 1990 their implementing regulations at 34 C.F.R. Part 104, and 28 C.F.R. Part 35 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 and Title II of the Americans with Disabilities Act of 1990 and their implementing regulations at 34 C.F.R. Part 104, and 28 C.F.R. Part 35, which were at issue in this case.

_____/s/_____
For the District

____6/17/2015_____
Effective Date