

RESOLUTION AGREEMENT

Mesa Public Schools OCR Case Number 08-15-1174

In order to resolve the allegations in OCR case number 08-15-1174, filed against the Mesa Public Schools (District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement this Resolution Agreement. This case was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. part 35.

During the investigation, before OCR made findings, the District indicated its willingness to ensure compliance with Section 504 and Title II and resolve the allegations raised in the discrimination 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. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such. The District agrees to take the following actions.

1. The District will hold an educational team meeting for the Student, which will include a discussion of accommodations and address accommodations if the Student's disability-related needs increase due to the Complainant's medical condition, including a disability that requires different accommodations as the disability becomes more severe in manifestation. The District will ensure that the meeting includes a team of persons knowledgeable about the Student (including the Student's parents), and review of outside evaluations. The District will provide the Student's parents with a meaningful opportunity to provide input into these determinations, notice of the determinations made, and notice of the procedural safeguards available to them under 34 C.F.R. § 104.36, including their right to challenge such determinations through an impartial due process hearing should they disagree.

REPORTING REQUIREMENT A: Within 90 days of this Agreement, the District will submit to OCR documentation showing implementation of Paragraph 1, including a copy of any meeting minutes, and any other documentation relevant to the determinations reached in accordance with Paragraph 1. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34-104.36, in making these determinations, and notify the District when it has completed this review.¹

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an educational team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the team described in Paragraph 1 proposes remedial actions for the Student *and* those actions are clearly insufficient to provide equitable relief to the Student, OCR will notify the District of its concerns, and the District will consider and respond to any feedback from OCR with respect to the proposed remedial measures.

REPORTING REQUIREMENT B: Within 90 days of this Agreement, the District will provide the Complainant with a copy of the Student's Section 504 or IDEA Educational Plan.

2. The District will provide the Student's teachers for the 2015-16 school year with a copy of the Student's Educational Plan created for Paragraph 1 and require written acknowledgment from each teacher of receipt of the Education Plan, an acknowledgement of his/her understanding of the required accommodations, and agreement to implement the accommodations in the Educational Plan.

REPORTING REQUIREMENT: Within 10 days of the completion of the requirements in Paragraph 1, the District will submit to OCR documentation showing implementation of Paragraph 2, including a copy of the Student's class schedule for Fall 2015, which includes the names of the Student's teachers, and a copy of each teacher's signed acknowledgement.

3. The District will complete an investigation, including any appeal rights, of the Complainant's disability harassment complaint and provide the Complainant with its written decision.

REPORTING REQUIREMENT: Within 90 days of this Agreement, the District will submit to OCR documentation showing that it investigated the disability harassment complaint by providing copies of its interview notes, information on any evidence gathered, and a copy of the District findings (including written findings provided to the Complainant) that include application of an appropriate legal standard and discussion of any remedies.

4. The District will provide training on the policies to all staff at Red Mountain High School (RMHS) (teachers, office staff, and administrators), regarding the requirements of Section 504, specifically addressing the requirement to provide accommodations in students' educational plans, information on FAPE requirements applying to disabilities that manifest themselves episodically, and information regarding the requirement of providing students with disabilities a free and appropriate public education.

REPORTING REQUIREMENT A: By November 1, 2015, the District will provide, for OCR's review and approval, its draft training materials; identification of who will be providing the training, by name and title; and a list of personnel required to participate in the training, by name and title and school.

REPORTING REQUIREMENT B: Within 60 days of OCR's approval of the training materials, the trainer, and who is to attend the training, the District will provide OCR with documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

5. The District will provide training on the policies to all staff at RMHS (teachers, office staff, and administrators), regarding the prohibition of harassment based on disability.

REPORTING REQUIREMENT A: By November 1, 2015, the District will provide OCR its draft training materials; identify who will be providing the training, by name and title; and provide a list of personnel required to participate in the training, by name and title.

REPORTING REQUIREMENT B: Within 60 days of OCR's approval of the training materials, the trainer, and who is to attend the training, the District will provide documentation demonstrating that the training was provided and a copy of the training sign-in sheets.

6. The District will invite the Complainant to meet with the Superintendent to discuss any remaining concerns.

REPORTING REQUIREMENT A: By November 1, 2015, the District will provide OCR documentation that it invited the Complainant to meet with the Superintendent and any information demonstrating that the Complainant scheduled a meeting.

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 and Title II of the Americans with Disabilities Act of 1990, 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.

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 the Agreement, if necessary, OCR may visit the District, interview District employees 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, which were at issue in this case.

For Mesa Public Schools:

/s/

9/8/2015

Dr. Michael Corwin
Superintendent

Date