

Voluntary Resolution Agreement

Lewis Palmer School District Office for Civil Rights (OCR) Case Number 08-15-1200

In order to resolve the allegations in Case Number 08-15-1200 filed with the U.S. Department of Education, Office for Civil Rights against Lewis Palmer School District (District) pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulations Part 104; Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35; and Title IX of the Education Amendments of 1972, the District agrees to take the actions outlined in this Voluntary Resolution Agreement. The complainant alleged that the District failed to provide the Complainant with a notice of his procedural safeguards under Section 504; failed to allow the Complainant's son (the Student) to submit evidence or a statement supporting his defense regarding an April 9, 2015 disciplinary incident for which he was suspended and eventually expelled; failed to provide the Complainant with the time and location of the Student's expulsion hearing; failed to adequately respond to complaints of peer disability and sexual harassment; and failed to provide free appropriate public educational (FAPE) services for the Student after April 13, 2015.

Prior to OCR's completion of its investigation and before OCR had made any findings regarding the Complainant's allegations that the District discriminated on the basis of disability, the District indicated its desire to voluntarily enter into an agreement to resolve the allegations and to ensure compliance with Section 504, Title II¹, and Title IX. Pursuant to Section 302 of OCR's *Case Processing Manual*, complaint allegations may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the allegations, OCR believes that doing so is appropriate, and the agreement's remedies align with the allegations. This Agreement does not relieve the District from fulfilling its other obligations under Section 504 and Title II or resolve any other individual or class complaints pending against the District. 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 and in fact, the District denies each and every allegation.

REMEDIAL ACTIONS

The District voluntarily agrees to take the following actions:

1. The District will provide to OCR documentation demonstrating the complainant's receipt of his procedural safeguards pursuant to 34 C.F.R. § 104.36.

Reporting Requirement Agreement Term 1: *By October 9, 2015*, the District will provide OCR documentation demonstrating completion of Term 1.

¹ Because Section 504 has specific requirements regarding FAPE and Title II provides for no lesser protection than that provided by Section 504, this Agreement refers to Section 504 in addressing Free Appropriate Public Education requirements.

2. Within ten days of the effective date of this agreement, the District will provide the Student an opportunity to provide a statement (written or oral) regarding the XXXX 2015 incident, which was one of the incidents taken into account for which the student was disciplined. The Student's parent(s) will be given an opportunity to be present if the statement is taken orally by the District.
3. The District will carefully evaluate the Student's statement, the alleged infractions, the District's discipline policies and procedures, and all other relevant information in determining whether the Student was inappropriately disciplined for the incidents.
4. If the District determines that, based on the information included in the Student's statement and the totality of the circumstances relating to the disciplinary incidents, the Student should not have been disciplined or was disciplined more harshly than appropriate:
 - a. The District will adjust or expunge the Student's disciplinary record, as appropriate.
 - b. The Student shall not be subjected to additional discipline as a result of the District's review of the disciplinary action.
5. If subsequent to the review of the disciplinary incident required by Agreement Terms 3 and 4 above, the District determines that expulsion is an appropriate disciplinary action, the District will convene an expulsion hearing. The District will ensure that:
 - a. The Complainant and Student have not less than 7 days notice of the date, time, and location of the hearing.
 - b. The Complainant and Student are advised of the manner in which the hearing will proceed, including their rights to representation, to present information or witnesses, an offer of alternative educational services, and to an appeal.
 - c. The hearing complies with the District's established discipline policies and procedures.

Reporting Requirement Agreement Terms 2-5: *By November 20, 2015*, the District will provide OCR documentation demonstrating completion of Terms 2-5 to include a copy or summary of the Student's statement, consideration of all relevant factors considered in evaluating the appropriateness of discipline for the XXXX 2015 incident, the Student's discipline plan and other previous incidents, and notice regarding the hearing, if determined necessary pursuant to the District's review of the XXXX disciplinary incident and previous incidents.

6. Within 45 days of the effective date of this agreement, the District will complete its investigation of all complaints, if any, of disability or sexual harassment discrimination made to the District by the Student or Complainant, whether formally or informally made, during the 2014-2015 school year. The District will conduct the investigation(s) in accord with the District's established policies and procedures. 34 C.F.R. § 104.7; 28 C.F.R. § 35.107; and 34 C.F.R. § 106.8.
7. For any complaint for which the District establishes discrimination occurred:

- a. The District will take appropriate action against the perpetrator(s) as defined by District disciplinary policies and procedures, which may result in progressive discipline for identified students.
- b. The District will also evaluate whether cumulatively the Student was subjected to a hostile educational environment on the basis of disability or sex.
- c. The District will take appropriate remedial action for the Student, including:
 - i. Reviewing whether the Student's grades were adversely impacted, and if appropriate, adjusting or expunging the grades;
 - ii. Offering the Student individual counseling, at no cost. Counseling may be provided by a qualified District employee;
 - iii. Convening a group of knowledgeable persons pursuant to the District's Section 504 procedures, and including the Complainant. The group will consider the Student's need for compensatory services, relating to any educational loss resulting from disability or sex discrimination that occurred during the 2014-15 school year; and
 - iv. For compensatory educational services identified pursuant to Agreement Term 7(c)(iii), developing a plan for compensatory services, including services required by the Student's Section 504 plan. The plan will be structured so as to minimize interference or impact upon the Student's school day.

Reporting Requirement Agreement Terms 6-7: *By November 20, 2015*, the District will provide OCR documentation demonstrating completion of Terms 6-7 to include copies or results of each investigation, copies of the evidence collected, documentation demonstrating action(s) taken against perpetrators, and all remedial actions taken on behalf of the Student.

The District understands that OCR will review the documentation to determine if the District appropriately investigated the allegations by gathering the necessary information and applying the correct legal standard(s). The District will respond to OCR's feedback until OCR determines that the District appropriately investigated the complaints.

8. *By November 20, 2015*, the District will develop a staff directive or other training document advising XXXX High School staff of their obligation to respond promptly and equitably to *all* complaints of alleged disability and sex discrimination, including allegations of disability or sexual harassment, and submit it to OCR for review and approval. The District will maintain and provide to OCR documentation that all XXXX High School staff received the approved directive or training document. 34 C.F.R. § 104.7; 28 C.F.R. § 35.107; and 34 C.F.R. § 106.8.
9. The staff directive or training document, referenced above, shall specifically emphasize:
 - a. Appropriate implementation of the District's non-discrimination grievance procedures;
 - b. How to recognize an allegation of disability or sex discrimination to include knowing what to do when staff suspect a hostile environment based on disability or sex; and
 - c. The contact information for the District's Section 504, Title II, and Title IX Coordinator(s). 34 C.F.R. 104.8; 28 C.F.R. §35.107; and 34 C.F.R. §106.9.

Reporting Requirement Agreement Terms 8 and 9: By November 20, 2015, the District will provide a draft staff directive or other training document, as required by Term 8, to OCR for review and approval. Within 30 days of OCR's approval of the document or directive, the District will provide documentation demonstrating completion of Terms 8 and 9, to include documentation of delivery and receipt of the staff directive or training document to all XXXX High School staff, and a copy of the document issued.

10. By November 20, 2015, the District will review the educational services offered to the Student from April 13, 2015 through the end of the 2014-2015 school year. In reviewing the services, the District will convene a group of knowledgeable persons pursuant to the District's Section 504 procedures. The group will consider information produced and the results of the District's review of the disciplinary incident, the student's discipline plan and other previous incidents required by Terms 3 and 4, along with the April 2015 review of whether the disciplinary incident was a manifestation of the Student's disability.

Reporting Requirement Agreement Term 10: *By November 20, 2015*, the District will provide documentation demonstrating the District provided the Student the opportunity to received educational services from April 13, 2015 through the end of the 2014-2015 school year.

11. In the event the Student returns to the District for educational services, including alternative services as an expelled student or because the original expulsion is set aside or overruled, the District will timely convene a Section 504 meeting pursuant to the District's Section 504 procedures to review the Student's Section 504 plan and any necessary disability-related services.

Reporting Requirement Agreement Term 11: Within 30 days of the District completing the Section 504 meeting required by Term 11, the District will provide OCR with documentation demonstrating completion of Term 11, including Section 504 team meeting notes, and a current copy of the Student's education plan. OCR's Monitoring of this term shall expire at the end of the 2015-16 school year plus 30 days.

MONITORING AND REPORTING

12. *By November 20, 2015*, the District shall provide to OCR an initial monitoring report, including supporting documentation and describing the steps the District has taken to ensure implementation of this Agreement.

13. 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 Section 504, Title II, and Title IX and their respective implementing regulations, 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 regulations implementing Section 504, Title II, and Title IX, and their respective implementing regulations, which were at issue in this case.

_____/s/_____
Lewis Palmer School District:

____12/8/2015_____
Effective Date: