

Resolution Agreement
Scottsdale Preparatory Academy
OCR Case Number 08-15-1327

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation of the above-referenced complaint against Scottsdale Preparatory Academy (the Academy), pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the U.S. Department of Education, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by public entities.

During the course of OCR's investigation, before OCR had made any findings, the Academy indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II and resolve the allegation that the Academy failed to evaluate the Student for a suspected disability. 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 allegation, OCR believes that doing so is appropriate, and the remedies align with the allegation.

This Agreement has been entered into voluntarily by the Academy and does not constitute an admission by the Academy that it is not in compliance with Section 504 or Title II or their implementing regulations.

1. By March 4, 2016, the Academy will evaluate the Student to determine if she is a student with a disability who needs special education or related services. In conducting this evaluation, the Academy will evaluate and place the Student in accordance with the Section 504 requirements of 34 C.F.R. §§104.31 through 104.35 regarding the identification, evaluation, and educational placement of students who, because of a disability, need or are believed to need special education or related services, and will provide the complainant with notice of the Academy's system of applicable procedural safeguards.¹

If the Student's team determines that the Student is a student with a disability pursuant to the Individuals with Disabilities in Education Act or Section 504, the team will develop an appropriate plan for the Student.² In considering the appropriate plan, the team shall also consider and evaluate the extent to which the failure of the Academy to timely evaluate the Student delayed her academic progress. The team will also consider whether any social or emotional issues may have arisen that need to be addressed through compensatory services.

¹ The Academy may choose to satisfy the requirements of Section 504 through compliance with the Individuals with a Disabilities Education Act (IDEA). In specific instances detailed in the Section 504 regulation, meeting the requirements of IDEA is one means of meeting the requirements of Section 504 regulation.

² The Student's team will include a group of individuals who are knowledgeable about: the Student; the meaning of relevant evaluation data, including medical evidence; and placement options

Based on the team's findings, the team will determine the type and number of hours of compensatory services, if it determines such services are necessary, to make up for any missed educational services. Based upon the team's findings, the Academy will develop a plan for providing those compensatory services to the Student within six months.

The Academy shall promptly notify the Complainant in writing of the compensatory services being offered at no cost and the proposed initiation date of such services.

The Academy will ensure that any decisions reflect the judgment of the entire team and not the judgment of a single individual.

REPORTING REQUIREMENT: By March 25, 2016, the Academy will complete the Student's evaluation and the meeting to consider compensatory education. By that same date, the Academy will submit documentation to OCR that includes the following:

- a. A list of the individuals who attended each meeting by name, title, and role in the meeting;
- b. Documentation of the Academy's invitation to the Complainant to attend the meetings and obtain her input;
- c. A copy of the summary of information the team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
- d. Notes from the meeting documenting that the team carefully considered input from persons knowledgeable about the Student;
- e. Documentation of the team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the basis for those decisions;
- f. A plan for the prompt provision of compensatory services to the Student at no cost to the Complainant;
- g. Documentation that the Complainant was notified in writing of the compensatory services offered by the Academy;
- h. Documentation that the Academy provided the Complainant with notice of her and the Student's rights and applicable procedural safeguards under Section 504.

Within six (6) months of the meeting, if compensatory services are deemed to be needed, the Academy will submit documentation to OCR demonstrating that all of the compensatory services determined by the team are being provided to the Student, or are completed.

2. The Academy will draft for OCR's approval in-service training materials and identify one or more persons knowledgeable about Title II and Section 504 who will provide the training to relevant Academy employees by May 1, 2016.³ The training will include, at a

³ OCR offers technical assistance to its recipients at no cost to the recipient. Therefore, the Academy may also request that OCR provide technical assistance on Title II and Section 504 at the earliest mutually convenient time. If

minimum:

- a. A review of the Academy's responsibility to comply with Title II and Section 504, which state that education institutions under OCR's jurisdiction may not discriminate against any person on the basis of disability;
- b. The Section 504 prohibition against disability discrimination, including retaliation, and an explanation of what constitutes disability discrimination and retaliation;
- c. The Academy's responsibility to provide students with disabilities a free appropriate public education (FAPE), based on Section 504's FAPE requirements at 34 C.F.R. §§ 104.33-36, including the requirement at 34 C.F.R. § 104.33(a) and (b) that the Academy provide FAPE to all of its students with disabilities, regardless of the nature or severity of the disability. An appropriate education is defined as the provision of regular or special education and related aids and services that are designed to meet the individual needs of students with disabilities as adequately as the needs of non-disabled students are met, and that are developed in accordance with the procedural requirement of 34 C.F.R. §§ 104.34-36. Further, the training should explain that one of the ways in which a school can inappropriately deny a student a FAPE is by failing to properly evaluate a student or failing to implement all of the provisions in a student's IEP or Section 504 plan, including a behavior plan; and
- d. A statement by the Academy that it does not tolerate disability discrimination or retaliation, that such conduct is prohibited by the law, and that effective action, including disciplinary action where appropriate, will be taken if discrimination or retaliation occurs.

REPORTING REQUIREMENT: By March 25, 2016, the Academy will submit documentation to OCR demonstrating that it has fully complied with Item 2. Such documentation will include: draft training materials for OCR's review and approval and the identification of the intended trainer and information about the trainer's qualifications. Alternatively, the documentation will include copies of correspondence between the Academy and OCR indicating that the Academy has arranged for OCR to provide technical assistance.

3. If the Academy chooses to conduct its own training, by May 1, 2016, and annually thereafter, the Academy will schedule and conduct in-service trainings on Title II and Section 504. Attendees at this training will include all Academy staff and administrators.

REPORTING REQUIREMENT: Within ten (10) days after the conclusion of the May 1, 2016 training, the Academy will submit to OCR proof that the training was provided. Such documentation will include: the agenda and handouts for the training; the date and time the training was held; and a copy of the attendance sheet from the training, including the name and title of each participant, along with written assurance from the Academy headmaster that all required attendees were present during the training.

The Academy understands that OCR will not close the monitoring of this Agreement until OCR determines that the Academy has fulfilled the terms and is in compliance with the regulations implementing Title II and Section 504, which were at issue in this case.

The Academy 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 the Agreement. Further, the Academy understands that during the monitoring of this Agreement, OCR may visit the Academy, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Academy has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title II and Section 504.

The Academy further understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement or judicial proceedings to enforce the Agreement, OCR shall give the Academy written notice of the alleged breach and a minimum of sixty (60) days to cure the alleged breach.

Scottsdale Preparatory Academy:

_____/s/_____
Alison Chaney, Headmaster

____3/10/16_____
Date