

Resolution Agreement
Estancia Valley Classical Academy
Complaint No. 08-16-1123

This Agreement resolves the allegations in Case Number 08-16-1123, filed against Estancia Valley Classical Academy (“Academy”) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504) and its implementing regulation at 34 C. F. R. Part 104.

During the course of OCR’s investigation, before OCR had made any findings about the allegations, the Academy indicated its willingness to take steps necessary to ensure compliance with Section 504. Pursuant to 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 allegations and issues, and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation. The Academy’s decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such. In addition, OCR discovered in the course of the investigation evidence to support a conclusion of noncompliance with Section 504, 34 C.F.R. Part 104. The Academy does not have Section 504 policies and procedures, instead relying on the State of New Mexico guidelines. The Academy has agreed that it should establish its own rules and procedures to comply with Section 504. In order to resolve this issue, and the Complainant’s individual allegations, the Academy and OCR negotiated the terms below:

I. INDIVIDUAL REMEDIES:

By January 31, 2017, after providing proper written notices to the parent of Student J and Student K, the Academy will convene separate IEP Team meetings to consider whether each Student is entitled to compensatory services for instruction missed by the Students due to the Academy’s failure to conduct a timely evaluation of each Student’s disability, resulting in a denial of a free appropriate public education (FAPE). The meetings shall be conducted pursuant to the procedural requirements of 34 C.F.R. §§ 104.33 through 104.36. If either Team determines that the respective Student is entitled to compensatory education or services, the team will include in the appropriate IEP a plan for providing the required education or services, and the Academy will provide such education or services in addition to any other service to which the Student is entitled.

REPORTING REQUIREMENT:

A. By February 15, 2017, the Academy will submit to OCR documentation showing implementation of the above, including a copy of any meeting minutes, a copy of any plan developed for each Student, documentation of any input provided by the Student’s parents and showing that procedural safeguards were provided to them, and any other documentation relevant to the determinations reached in accordance with the above. Should the Academy determine that no compensatory education or other remedial services were necessary; the Academy will provide a written explanation of the reasons for that determination, along with any supporting documentation. OCR will review the documentation submitted to ensure that

the Academy met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations.¹

B. If either Team determines the respective Student is entitled to compensatory education or services, then by May 25, 2017, the Academy will provide documentation to OCR of the dates, times, and locations that the compensatory education or other remedial services were provided to the Student(s), including the name(s) and title(s) of the service provider(s) and will provide OCR documentation demonstrating that it has provided all of the education or services.

II. SECTION 504 POLICIES AND PROCEDURES:

To ensure that each student with a disability in the Academy is provided a free appropriate public education consistent with the regulatory requirements of Section 504, the Academy will prepare draft policies and procedures that comply with Section 504.

REPORTING REQUIREMENT: By February 28, 2017, the Academy will submit to OCR for its review and approval the proposed Section 504 policies and procedures.

Within 30 days of the receipt of notice of OCR's approval of the proposed Section 504 policies and procedures, the Academy will adopt, implement, and publish the policies and procedures in its student and employee handbooks and incorporate it into the Academy's website.

REPORTING REQUIREMENT: Within 10 days after the completion of this item, the Academy will submit documentation to OCR that it has completed this item and include copies of the adopted policies and procedures and documentation evidencing that the policies and procedures have been adopted, implemented, and published, including in student and employee handbooks, the website, and any other appropriate publications.

III. NOTICE AND TRAINING

By May 25, 2017, the Academy will provide written notice and training to all administrative and certificated regular and special education staff involved in identifying, evaluating, and making educational placement decisions for and providing educational services to students with disabilities of the Section 504 policies, procedures, and forms referenced in section II. The training will include:

- A. An explanation of the Academy's obligations under Section 504 with respect to providing a free appropriate public education to each student with a disability;
- B. An overview of the Academy's policies, procedures, and forms for implementing Section 504;

¹ Except in extraordinary circumstances, OCR does not substitute its judgment for the decisions made by an IEP Team that is constituted and functions in accordance with the requirements of the regulations at issue in this complaint. Nonetheless, the Academy understands that OCR will review the process of the IEP meetings in light of the regulations to determine the sufficiency of the outcomes.

C. Appropriate guidance with respect to what steps each staff must take to implement the Academy's Section 504 policies, procedures, and forms;

D. A statement that each service identified in a student's IEP or Section 504 plan as necessary to meet a student's disability-related education needs must be provided and is not discretionary;

E. An explanation of the Section 504 grievance procedures and providing the name and location of the Academy's Section 504 coordinator and of the staff person to contact for questions concerning how to implement the Academy's Section 504 policies, procedures, and forms.

REPORTING REQUIREMENT: By May 25, 2017 the Academy will provide OCR with a copy of the training materials, dates of training sessions, and list of persons who presented and attended the sessions, by title, as described in section III.

The Academy understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. 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 Section 504 at 34 C.F.R. Part 104 which were at issue in this complaint.

The Academy shall comply with any additional OCR requests for monitoring reports related to the terms of this Agreement as necessary until the Academy demonstrates full compliance with all terms of this Agreement.

The Academy understands that OCR will not close the monitoring of this Agreement until OCR determines that the Academy has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. Part 104.

The Academy 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 (34 C.F.R. §§ 100.9, 100.10), 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.

Estancia Valley Classical Academy:

_____/s/_____
Executive Director

__01/24/2017_____
Date