

RESOLUTION AGREEMENT

Gilbert Public Schools OCR Case Number 08-16-1322

In order to resolve allegations in OCR case number 08-16-1322, filed against the Gilbert Public Schools 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 investigation was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation at 34 C.F.R. §§ 104.4, 104.7-104.8, 104.33-104.35, and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. §§ 35.106-35.107 and 35.130.

1. Section 504 and Title II Grievance Procedures, Notice of Section 504/Title II Coordinator, and Notice of Non-Discrimination: The District will review and revise its policies and procedures for responding to disability discrimination complaints, provide a notice of nondiscrimination, and provide notice of its Section 504/Title II compliance officer, so that the policies and procedures and notices are compliant with Section 504 and Title II of the ADA. See 34 C.F.R. §§ 104.7–104.8 and 28 C.F.R. §§ 35.106-35.107.

REPORTING REQUIREMENTS:

- By November 30, 2016, the District will submit to OCR for review and approval the District's draft policies and procedures for responding to disability discrimination complaints, its draft notice of non-discrimination, and the qualifications of its Section 504/Title II compliance officer and draft notice of the compliance officer.
 - Within 60 days of OCR's approval of the District's grievance policy and procedures, and notices of nondiscrimination and Section 504/Title II compliance officer, the District will adopt the approved policy and procedures and notices, and provide notice of these to District parents and students. The notice may be accomplished by placing information regarding the grievance policy and procedures, notice of the Section 504/Title II compliance officer, and notice of non-discrimination in school newsletters and the District's website with links to these posted on its website.
 - Within 60 days of board adoption of the OCR's approved grievance policy and procedures, and notices, the District will provide OCR with supporting documentation to show the approved policy is adopted and the notices were provided. Supporting documentation will include 1) weblinks to where the grievance procedures and policy, notice of Section 504/Title II coordinator, and notice of non-discrimination are posted on the District's website, 2) student handbooks, 3) copies of school newsletters, or 4) other similar documents notifying parents of the changes to the District's Section 504/Title II grievance policies and procedures, of the notice of the Section 504/Title II Coordinator, and notice of non-discrimination.
2. The District will ensure that the OCR-approved Section 504/Title II grievance policies and procedures, notice of Section 504/Title II Coordinator, and notice of non-discrimination are disseminated to all staff in the District. The District will review the policies and procedures at a staff meeting at each of its schools within 60 days of board adoption of the OCR's approved policies and procedures.

REPORTING REQUIREMENT:

- Within of board adoption of the OCR's approved of the grievance policies and procedures that address Section 504 and Title II issues, the District will provide OCR with a description of how the policies and procedures were disseminated to staff members, and document that the policies have been reviewed in a staff meeting at Desert Ridge High School.
3. The District will update its website to ensure clear and simple access to information regarding the District's Section 504 and Title II compliance officer, notice of non-discrimination and grievance process, including accurate links to discrimination policies and procedures.

REPORTING REQUIREMENT:

- Within 60 days of board adoption of the OCR's approved policies and procedures, the District will provide OCR with the links demonstrating clear and simple access to information regarding its Section 504 and Title II compliance officer, notice of non-discrimination, and grievance procedure.
4. The District will identify and annually train the staff members at Desert Ridge High School who are responsible for responding to disability discrimination complaints. The training will include the obligation of staff to refer potential discrimination complaints to the District's compliance officer or designated individual in accordance with the approved District policy and procedure.

REPORTING REQUIREMENTS:

- Within 30 days of OCR's approval of the policies and procedures, the District will provide OCR with a copy of the training agenda, training materials, and identify the trainer and her/his qualifications to provide the training, for OCR's review and approval.
 - Within 60 days of OCR's approval of the trainer and training materials, the District will provide OCR with a copy of all handouts provided during or before the training, a list of all staff identified to receive the training, and a sign-in sheet for those attending the training.
5. The District will conduct an investigation of the Complainant's disability discrimination complaint regarding different treatment by the Student's Chemistry Teacher. The investigation report must demonstrate that the District gathered information from relevant individuals; conducted relevant interviews with District staff, the Student, and any other witnesses; applied appropriate legal standards; and proposed appropriate remedies to resolve any discrimination found.

REPORTING REQUIREMENTS:

- By November 30, 2016, the District will provide its draft written investigation report to OCR for review.
- Within 30 days of OCR's approval of the draft investigation report, the District will provide documentation that it provided the parties with written investigation findings and has begun implementing any required remedies.

6. The District will hold an IEP team meeting and determine whether the Student requires compensatory services for any failure to implement the Student's IEP. The District will ensure that the IEP team is a team of persons knowledgeable about the Student (including the Student's parents), the evaluation data, and the placement options. The IEP team will assess the amount of compensatory services, if any, that would be appropriate for the student and, if necessary, draft an action plan containing proposed compensatory services or remedial measures that will be offered or taken, the specific timelines for implementation, and the person(s) responsible for overseeing full and timely implementation. The District will provide 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:

- By November 30, 2016, the District will provide any meeting minutes, a copy of any IEP developed for the 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 this Paragraph. Should the District determine that no compensatory education or other remedial services were necessary, the District 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 District 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, and notify the District when it has completed this review.¹
7. After OCR has reviewed and accepted the determinations of the IEP team, the District will take steps to implement the compensatory services, if any, agreed upon by the IEP team.

REPORTING REQUIREMENT:

- Within 30 days from the date of OCR's acceptance of the proposed compensatory services (if any) or remedial measures, the District will provide documentation that it has provided or is in the process of providing the compensatory services or remedial measures. For compensatory services and remedial measures that will occur over time, the District must submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing full and timely implementation, and supporting documentation establishing that the compensatory services and remedial measures are being provided as specified. If the Student is to receive compensatory services, the case will remain in monitoring until all compensatory services and remedial measures have been provided in full.

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the IEP teams described in provisions 6 and 7 propose compensatory services or remedial actions *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 compensatory services or remedial measures.

8. The District will ensure the implementation of the Student's and other students' educational plans at Desert Ridge High School by instituting schoolwide measures intended to ensure the implementation of students' with disabilities educational plans.

REPORTING REQUIREMENTS:

- By January 15, 2017, the District will provide OCR with an explanation of the measures it has implemented at Desert Ridge High School to ensure implementation of students' with disabilities educational plans, including the District's periodic review of implementation and any necessary corrective action. The District will respond to any feedback and concerns raised by OCR. The District will also provide documentation demonstrating the implementation of the Student's educational plan from the date of this agreement through December 31, 2016.
- By June 1, 2017, the District will provide OCR with the results of its review of the educational plan implementation at Desert Ridge High School for the 2016-17 school year, including any corrective action that was determined necessary. The District will also provide documentation demonstrating the implementation of the Student's educational plan from January 1, 2017 through May 15, 2017.

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 at 34 C.F.R. §§ 104.7-104.8, and 104.33 and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. §§ 35.106-35.107 and 35.130, 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 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 at 34 C.F.R. §§ 104.7-104.8, and 104.33 and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. §§ 35.106-35.107 and 35.130, which were at issue in this case.

For Gilbert Public Schools:

/s/

10/20/2016

Linda McKeever
Chief Academic Officer

Date