

RESOLUTION AGREEMENT

Avondale Elementary School District 08-16-1396

The U.S. Department of Education, Office for Civil Rights (OCR), reviewed the above-referenced complaint against the Avondale Elementary School District (District) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. The District agrees to implement the following terms of this Resolution Agreement (Agreement).

1. Within 10 calendar days of the date of the signed Agreement, the District will notify the Complainant, in writing, that the Student is welcome to re-enroll in the District. The notification will further state that if the Complainant accepts the District's offer and chooses to re-enroll the Student in the District during the 2017-2018 school year, the District will offer to convene a multidisciplinary team meeting to review the Student's Individualized Education Program (IEP). The letter shall explain that the purpose of the meeting is to:
 - a. Ensure the Student's IEP is updated and provides a Free Appropriate Public Education (FAPE) to the Student.
 - b. Ensure that the District has addressed and removed any ambiguity and vagueness in the IEP that was the subject of OCR's investigation. Specifically, if appropriate, the District will revise the "Nursing Services" accommodation to provide for a clearly defined schedule for the administration of breathing treatments.
 - c. To consider whether the Student needs compensatory services for instruction missed due to absences related to the District's failure, if any, to provide for breathing treatment as required under the Student's January 2016 IEP.

REPORTING REQUIREMENT

- i. Within 10 days of this agreement, the District will provide OCR with a copy of the letter sent to the Complainant, with proof that the letter was sent.
- ii. Within 10 days of the date the Complainant notifies the District whether the Complainant chooses to re-enroll the Student, the District will notify OCR of the Complainant's decision. Additionally, the District will notify OCR of the date of the multidisciplinary team meeting, if scheduled. If the Complainant fails to respond within 30 days of the date of the letter, the District will notify OCR and provide an explanation of all efforts it made to reach out to the Complainant.

2. At a date agreed upon by members of the Student's multidisciplinary team, the District will conduct a multidisciplinary team meeting to address the requirements in Term 1 (a) to (c). The meeting will be conducted procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 104.36. The District will ensure that: (a) any decisions reflect the judgment of the team and not the judgment of a single individual; (b) the Student's parents are invited to the meeting; (c) the team carefully considers all information provided by the Student's parents and their invitees; and (d) the team includes District employees who have knowledge of the matters being considered by the team.

REPORTING REQUIREMENT

- i. Within 15 days of the date of the multidisciplinary team meeting, the District will notify OCR of the team's decision and provide OCR with a copy of the team's meeting notes. 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. §§ 104.35 and 104.36, in making these determinations, and notify the District when it has completed this review. Additionally, OCR will continue to monitor the District's implementation of the compensatory services, if any are determined to be necessary, and the District will provide OCR with a copy of documents demonstrating its fulfillment of such services.
3. Within 30 days of the Date of this Agreement, the District will create a plan (Plan), for OCR's review, designed to ensure that students with IEPs or Section 504 plans who require care by nursing staff are provided the required services. The Plan shall ensure that there are no gaps in services during nursing staff absences or transitions between nursing staff. Also, the Plan shall ensure and consistent recording of services rendered.

REPORTING REQUIREMENT

- i. Within 10 days of the date the District creates the Plan, the District will provide OCR with a copy of the Plan for OCR's review. The District will continue to modify the Plan based upon OCR's recommendations until the District receives OCR's written approval.
4. Within 15 days of the date the District receives OCR's written approval of the Plan, the District will conduct a training (or trainings) for all nurses, health aides, and other staff involved in the provision of nursing care as required on IEPs and 504 plans at schools, as well as school administrators tasked with the responsibilities of implementing the Plan at the schools, regarding the implementation of the Plan.

REPORTING REQUIREMENT

- i. Within 10 days after the date of the training, the District will provide OCR with copies of the training agenda and the materials presented at the training. The District will provide OCR with a statement confirming the training occurred and that all individuals who required it were present. The District will also provide

OCR with a sign-in sheet containing the names and titles of all recipients of the training. The District will consider and respond to any feedback from OCR regarding the content of the training and attendees.

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, 34 C.F.R. §§104.33, and Title II, at 28 C.F.R. §§ 35.130(a) and (b)(1)(iii), 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, 34 C.F.R. §§ 104.33, and Title II, at 28 C.F.R. §§ 35.130(a) and (b)(1)(iii), 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 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 District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

8/1/17

Avondale Elementary School District

Date