

## **Voluntary Resolution Agreement**

### **Pointe Schools**

### **OCR Case Numbers 08-16-1424, 08-16-1427, and 08-16-1024**

In order to resolve OCR case numbers 08-16-1424, 08-16-1427, and 08-16-1024, filed against Pointe Schools (Pointe) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), Pointe agrees to implement this voluntary Resolution Agreement. These cases were initiated pursuant to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulations Part 104 and Title II of the Americans with Disabilities Act of 1990 and its implementing Regulation at 28 Code of Federal Regulations Part 35.

Pointe's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

### **Agreement Terms**

1. Pointe will provide training to its staff and administrators on the Section 504 regulation at 34 C.F.R. §§ 104.61, which incorporates the Title VI regulation at 34 C.F.R. § 100.7(e), and the Title II regulation at 28 C.F.R. § 35.134, which prohibit retaliation. In particular, the training shall inform participants of the prohibition against retaliation, including but not limited to the elements of a *prima facie* claim of retaliation, the type of acts that may be considered to constitute protected activity, adverse actions, legitimate non-retaliatory reasons for a school's action, and an explanation of pretext.

### **REPORTING REQUIREMENTS:**

- By July 15, 2017, Pointe 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.
- No later than 3 months after OCR's approval of the trainer and training materials, Pointe will provide the approved training to staff members and subsequently 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 sign-in sheets with participants' names and positions.

2. Pointe will hold a properly convened Individual Educational Program (IEP) meeting to include discussion of whether the Student is eligible for and should receive transportation as a related service. The discussion may be part of an already scheduled IEP team meeting, may be included in a meeting not yet scheduled, or may be a meeting held solely for the purpose of discussing transportation.<sup>1</sup> Pointe will ensure that any decisions made at this meeting reflect the

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<sup>1</sup> Pointe previously agreed to pay for the expense of an independent educational evaluation for a functional behavior assessment. Term Two will be completed when the parents secure the assessment and provide the findings to Pointe.

judgment of the IEP team and not the judgment of a single individual. Pointe will ensure that the Student's parents or guardians ("parents") are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The team will carefully consider all information provided by the Student's parents and their invitees. The team will include Pointe and Aurora Day School employees who have knowledge of the matters being considered by the team. If the parents dispute the decision of the IEP team, Pointe will provide proper notice of the parent's due process rights to challenge the decision of the team.

**REPORTING REQUIREMENTS:** By August 1, 2017, Pointe will provide OCR documentation demonstrating compliance with Term 2, including documentation of the completed IEP meeting. The documentation will include, at minimum, any meeting minutes, a copy of any IEP developed for the Student, documentation of any input provided by the Student's parents and other knowledgeable persons, and evidence showing that procedural safeguards were provided to the Student's parents, and any other documentation relevant to the determinations reached in accordance with this Paragraph. OCR will review the documentation submitted to ensure that Pointe 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 Pointe when it has completed this review.

3. Pointe will send a letter to the parent<sup>2</sup> to offer to reimburse the parent for documented travel mileage (19 cents per mile), specifically for transporting the Student in the afternoon twice a week from the mother's home to the location of the therapeutic day care/respite provider, during the fall of the 2015-16 school year. Total mileage reimbursement shall not exceed two hundred and fifty dollars (\$ 250.00).<sup>3</sup>

**REPORTING REQUIREMENTS:** By August 1, 2017, Pointe will provide OCR documentation demonstrating compliance with Term 3, including a copy of the letter sent to the parent, written verification that the parent received the letter, and written verification that the parent has been reimbursed for her mileage expenses.

Pointe 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, Pointe understands that during the monitoring of this agreement, if necessary, OCR may visit Pointe, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether Pointe has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 and Title II, at 34 C.F.R. §§ 104.61, which incorporates the Title VI regulation at 34 C.F.R. § 100.7(e), and the Title II regulation at 28 C.F.R. § 35.134, which were at issue in these cases.

Pointe understands that OCR will not close the monitoring of this agreement until OCR determines that Pointe has fulfilled the terms of this agreement and is in compliance with the

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<sup>2</sup> Non-complainant parent.

<sup>3</sup> Documentation may include the address of where the student was transported, and written verification from the provider of the days that the student attended the afterschool program.

regulations implementing Section 504 and Title II, at 34 C.F.R. §§ 104.61, which incorporates the Title VI regulation at 34 C.F.R. § 100.7(e), and the Title II regulation at 28 C.F.R. § 35.13.

Pointe 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 Pointe written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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For Pointe Schools

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Date