

## Resolution Agreement

Deer Trail School District  
OCR Case Number 08-17-1061

&

East Central Boards of Cooperative Educational Services  
OCR Case Number 08-17-1270

Deer Trail School District (“District”) and the East Central Boards of Cooperative Educational Services (BOCES) agree to implement this Resolution Agreement (“Agreement”) to resolve compliance issues identified during the investigation of the above referenced complaints, which were opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR). The District and BOCES (collectively, “Recipients”) will take the following actions to ensure that the Recipients are in compliance with Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 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 (“Title II”), 42 U.S.C. §§ 12131-12134, and its implementing regulation, at 28 C.F.R. Part 35.

- I. **Staff Education.** The Recipients will disseminate a memorandum to all Deer Trail High School (“School”) and BOCES administrators and providers of special education and related services at the School, regarding the Recipients’ responsibilities under Section 504 and Title II. The memorandum will include, at a minimum, a description of:
  - a. a free appropriate public education (FAPE), and the Recipient’s obligation to provide FAPE to each qualified individual with a disability in their jurisdiction; and
  - b. the Recipients’ obligation to fully implement all Section 504 plans and individualized education programs (IEPs), including obligations on staff when Section 504 plans and IEPs indicate that a student will be “provided opportunities.”

The memorandum will also include the following sentence: “Please read the attached technical assistance from the Office for Civil Rights in a recent case involving a District student.” The Recipients will attach to the memorandum a copy of the “Additional Concerns” section of OCR’s Resolution Letter in this case. The Recipients will not disseminate the other sections of the letter.

**Reporting Requirement I(A):** Within twenty (20) calendar days of this Agreement being signed by both Recipients, the Recipients will submit to OCR for review and approval a draft of the above-referenced memorandum. The Recipients will consider and respond to any feedback from OCR until OCR approves the memo for dissemination.

**Reporting Requirement I(B):** Within ten (10) calendar days of OCR’s approval of the memorandum, the Recipients will disseminate the memorandum, under the District Superintendent’s and BOCES Executive Director’s signatures, to the required employees.

**Reporting Requirement I(C):** Within ten (10) calendar days of disseminating the memorandum, the Recipients will provide OCR a copy of the signed memorandum and documentation showing that it was distributed to the required employees with the required attachment.

- II. **Compensatory Services.** The Recipients will offer – and if accepted, provide – a one-time, lump-sum reimbursement or payment for: one (1) hour of XXX services for Student 1 and five (5) hours of college

and career advising services for Student 2.<sup>1</sup>

**Reporting Requirement II(A):** Within twenty (20) calendar days of this Agreement being signed, the Recipients will provide to OCR a draft letter, addressed to the Complainant, offering a one-time, lump-sum reimbursement or payment for one (1) hours of XXX services for Student 1 and five (5) hours of college and career advising services for Student 2. In the letter, the Recipients will offer to reimburse the Complainant directly or to pay providers of the Complainant's choosing (*e.g.*, private providers).

The letter will specify:

- i. the specific amount of money being offered, which shall be consistent with fair market hourly rates of contracted, qualified XXX and contracted, qualified college and career advisors;
- ii. that, if the Complainant responds to the offer, the response must be in writing;
- iii. the name, title or position, phone number, mailing address, and email address for the person to whom the Complainant shall direct his response, if any; and
- iv. that the Complainant has twenty-one (21) calendar days to respond to the offer.

The Recipients will promptly and fully address OCR's feedback, if any, until the Recipients receive OCR's final approval of the letter.

**Reporting Requirement II(B):** Within ten (10) calendar days of receiving OCR's final approval of the letter, the Recipients will send the approved letter to the Complainant and OCR. The letter may be sent via email or certified mail.

**Reporting Requirement II(C):** If the Complainant responds to the Recipients' letter within twenty-one (21) calendar days without copying OCR, the Recipients will provide OCR with a copy of his response within ten (10) calendar days of the Recipients receiving the response. If the Complainant fails to respond to the offer within the specified twenty-one (21) calendar days, the Recipients will notify OCR within thirty (30) calendar days of the date the letter was sent.

**Reporting Requirement II(D):** If the Complainant accepts the Recipients' offer, the Recipients will, within fifteen (15) calendar days of receiving the Complainant's acceptance:

- i. send payment to the Complainant and/or provider; and
- ii. submit to OCR a copy of documentation showing that it made the payment and any accompanying correspondence.

The Recipients understand that by signing this Agreement, they agree to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Recipients understand that during the monitoring of this Agreement, if necessary, OCR may visit the Recipients, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Recipients have fulfilled the terms of this Agreement and are in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR will close these cases.

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<sup>1</sup> The Recipients will decide amongst themselves how to share the financial cost of implementing this Agreement term.

The Recipients understand and acknowledge 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. §§ 100.9-10), or judicial proceedings to enforce this Agreement, OCR shall give the Recipients written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

9/28/18

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BJ Buchmann, Interim Superintendent  
Deer Trail School District

\_\_\_\_\_  
Date

/s/

9/28/18

\_\_\_\_\_  
Don Anderson, Executive Director  
East Central Board of Cooperative Educational Services

\_\_\_\_\_  
Date