

Resolution Agreement

Estes Park School District OCR Case Number 08-17-1208

In order to resolve OCR case number 08-17-1208, filed against the Estes Park School District (District) 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 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, the District has voluntarily agreed to enter into this Agreement. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing in its implementation of Section 504 and Title II and their implementing regulations, nor shall it be construed as such.

To ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the actions set forth below.

1. Within 10 days of signing the Agreement, the District will write the Complainant and offer to hold a Section 504 team meeting for the Student that will occur no later than May 30, 2017 to consider the appropriate accommodations and services that the Student needs to attend classes at XXX School during school year (SY) 2017-2018, and to consider any compensatory services that may be owed to the student for SY 2016-2017.
2. By May 30, 2017, the District will hold a Section 504 team meeting and make a team determination on the accommodations to be provided to the Student when he attends classes at the XXX school during SY 2017-2018. At the meeting, the Section 504 team will review the implementation of the Student's Section 504 Plan regarding assistive technology services, including audio textbooks, electronic and digitally formatted quizzes, tests, and exams, class notes, instruction, handouts, and assignments for the two classes that the student took at the School during SY 2016-2017. The Section 504 team will also discuss and document what, if any, accommodations will be communicated to the administrators of college entrance exams (e.g., SAT and ACT), when any such accommodations will be communicated, and who will be responsible for communicating such information. The District will ensure that the Section 504 team is a team of persons knowledgeable about the Student (including the Student's parents), the evaluation data, and the placement options. The Section 504 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 the 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.
3. If Student enrolls in the District for the 2017-2018 school year, the general education teachers, special education teachers (if any), and related service providers (if any) assigned to implement Student's 504 plan shall convene a staff meeting within 10 school days of the Student's start date to review the Student's 504 plan and address its implementation. The District's 504 Coordinator shall attend the meeting and remind attendees of the District's obligations to comply with Section

504 and Title II by providing students with disabilities a free appropriate public education and requirement for ensuring full implementation of students' Section 504 Plans and Individualized Education Programs (IEPs), how the XX disability affects student learning, appropriate accommodations for students with XX, and ways to implement such accommodations.

REPORTING REQUIREMENTS:

- Within 14 days of the signing of this Agreement, the District will provide OCR with a copy of the letter, and related Section 504 meeting notices, required by Paragraph 1 and sent to the Complainant.
- Within 60 days of the signing of this Agreement, the District will provide OCR with a copy of any meeting minutes, a copy of any revisions to the Student's Section 504 Plan, 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 Paragraph 1. 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
- If the Student enrolls in the District for the 2017-2018 school year, within 20 school days of the Student's start date, the District shall submit evidence to OCR of the staff meeting to review Student's 504 plan and address its implementation. Such evidence shall include a list of attendees and meeting notes.
- 4. After OCR has reviewed the District's documentation and has determined that the Section 504 procedural requirements were met, the District will take steps to implement the compensatory services, if any, agreed upon by the Section 504 team.

REPORTING REQUIREMENT: Within 30 school days from the date of OCR's approval, 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.

- 5. The District will draft in-service training materials, identifying one or more persons knowledgeable about Section 504 and Title II and the disability of xxxx, who will provide the

¹ Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a Section 504 team that is properly constituted and that takes appropriate actions in light of the requirements of due process. In the event that the Section 504 team described in Paragraph 2 proposes 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.

training. The training will be provided at the beginning of SY 2017-2018, and no later than October 16, 2017, to all District administrators and XXXX School staff who are involved with the implementation of students with xxx Section 504 Plans or Individualized Education Programs. The training will include a review of the District's obligations to comply with Section 504 and Title II by providing students with disabilities a free appropriate public education and requirement for ensuring full implementation of students' Section 504 Plans and Individualized Education Programs (IEPs), how the xxx disability affects student learning, appropriate accommodations for students with xxx, and ways to implement such accommodations.

REPORTING REQUIREMENT: Within 60 days of the signing of this Agreement, the District will submit its proposed training materials to OCR. Such documentation will include the draft training materials for OCR's review and approval, the name and qualifications of the intended trainer, and a list of individuals (including school administrators and teachers) at XXXX School who will receive the training.

6. The District will consider and respond to any feedback from OCR with respect to the training identified in Paragraph 4. After obtaining OCR's approval of the training materials and the trainer, the District will schedule and conduct an in-service training for the District administrator(s) and School staff members identified.

REPORTING REQUIREMENT: Within 30 days after obtaining OCR's approval of the training materials, and no later than September 1, 2017, the District will conduct the Section 504 and Title II training. Within 15 days after the training has concluded, the District will submit to OCR documentation that the training was provided. Such documentation will include the agenda and handouts for the training, the date and time the training was held, and a copy of the attendance sheet from the training including the name and title of each participant, along with a written assurance from the District that all required attendees were present during the training.

7. If the Student enrolls in the District for the 2017-2018 school year, the District will provide OCR with documentation supporting that the District has implemented the related aids, services, and other specific accommodations and/or modifications needed by the student, as determined by the Student's 504 team or IEP team.. The District will respond to OCR's feedback regarding the information provided.

REPORTING REQUIREMENT: By December 15, 2017, the District will provide OCR with documentation supporting that the District has implemented the related aids, services, and other specific accommodations and/or modifications needed by the Student, as determined by the Student's 504 team or IEP team.

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. § 104.33 and 104.35 and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. § 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. § 104.33-104.35 and Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. § 35.130, which were at issue in this case.

For Estes Park School District:

/s/

6/2/17

Superintendent

Date