

**Resolution Agreement  
Paradise Valley School District  
OCR Case Number 08-17-1211**

In order to resolve allegations in case number 08-17-1211 filed against Paradise Valley 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 (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. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, the District will implement the following terms of this Resolution Agreement.

**Shortened School Day Policy and Procedures**

- I. Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR for review and approval guidelines for IEP or 504 teams that consider shortened school day schedules (“shortened schedule”) for a student with a disability. The guidelines will include, at a minimum:
  - a. A definition of shortened schedule;
  - b. Under what circumstances a shortened schedule is permissible<sup>1</sup>
  - c. Examples of impermissible reasons for a shortened schedule<sup>2</sup>
  - d. Who must make the decision regarding a shortened schedule;<sup>3</sup>
  - e. How to document and maintain relevant records relating to a shortened schedule which must include:
    - i. The student’s school’s daily schedule;
    - ii. Whether the student’s parent(s) or guardian(s) agree or disagree with the shortened schedule;
    - iii. The justification for a shortened schedule;
    - iv. How the delivery of a free appropriate public education (FAPE) will be achieved considering the shortened schedule;
    - v. Whether the shortened schedule will impact the Least Restrictive Environment;
    - vi. When the shortened schedule will be reviewed to determine if it continues to be appropriate and complies with applicable regulations;
    - vii. An IEP or 504 team must regularly review the decision for a shortened schedule to ensure that it is necessary for the Student's needs;<sup>4</sup>
  - f. A requirement that the policy or regulation be distributed to a student’s parent(s) or guardian(s) prior to any meeting at which a shortened schedule will be discussed; and
  - g. Who parents and guardians should contact if they believe the policy or regulation was violated.
- II. The District will promptly and fully address feedback from OCR until it receives OCR's final approval of the guidelines for Term I.
- III. Within sixty (60) calendar days of OCR's final approval of the policy, the District will adopt, publish, and disseminate the approved policy.

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<sup>1</sup> All circumstances must comply with the requirements of applicable civil rights laws and regulations.

<sup>2</sup> For example, administrative convenience, cost savings, the unavailability of staff, transportation administration, and driving distance.

<sup>3</sup> This provision must comply with applicable regulations for IEP teams and Section 504 teams.

<sup>4</sup> This provision must comply with applicable regulations for IEP teams and Section 504 teams.

- a. Publication must include:
    - i. The District's "Section 504 Handbook", "Special Education Handbook", and all similar documents;
    - ii. The District's "Policies" and all similar documents;
    - iii. All relevant internal or public handbooks or manuals produced by the District.
  - b. Dissemination must include:
    - i. All school administrators in the District; and
    - ii. All special education staff in the District.
- IV. Within sixty (60) calendar days of receiving OCR's final approval of the guidelines the District will provide to OCR:
- a. A copy of the final guidelines;
  - b. Documentation showing that the policy or regulation was adopted, published and disseminated.

### **Staff Training**

- V. Within sixty (60) calendar days of receiving OCR's final approval of the policy or regulation, the District will submit to OCR for review and approval:
- a. Draft materials to train XX (School) staff and administrators about shortened day schedules, including, at a minimum, the provisions of the policy or regulation described in Term I of this Agreement; and
  - b. The names(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to the School staff.
- VI. Within sixty (60) calendar days of receiving OCR's final approval of the materials and trainer(s), the Recipients will provide the training for:
- a. All school administrators in the School;
  - b. All special education coordinators, directors, and chairs in the School; and
  - c. All relevant staff at the School, as determined by the District.
- VII. Within thirty (30) calendar days of the training being provided to staff, the District will provide to OCR:
- a. The date, time, and location of the training;
  - b. Confirmation that the approved trainer(s) delivered the training;
  - c. The agenda and materials from the training;
  - d. The names and titles of all School staff who attended the training;
  - e. The name(s) and title(s) of all staff who were required to attend the training pursuant to Term VI, but who did not attend the training, and an explanation for each person's absence; and
  - f. Makeup dates for the trainings, if any.

### **Placement meeting and Compensatory Services**

- VIII. Within thirty (30) calendar days of this Agreement being signed, the District will invite, in writing, the Complainant to an IEP team meeting.
- a. The parties will draft an IEP pursuant to the eligibility determination made at the February 10, 2017 eligibility meeting.

- b. If additional information about the Student, such as additional evaluations, is needed the parties will make arrangements for obtaining that information or conducting those evaluations, and schedule a follow-up IEP meeting.
  - c. At the meeting the parties will also discuss whether compensatory education is owed. In making this determination, the parties will consider, at a minimum, whether: (a) the shortened schedule resulted in a change in placement (*i.e.*, a substantial alteration in the student's educational program); (b) the shortened schedule was prompted by legitimate educational needs; (c) the procedures required by Section 504 were followed in establishing the shortened schedule; (d) the impact on the provision of FAPE to the Student when the District failed to place the Student in a timely manner following the eligibility determination meeting; and (e) the impact on the provision of FAPE to the Student when the District failed to fully implement the Student's Section 504 Plan.
  - d. If compensatory education is owed, the teams will:
    - i. Assess the type of compensatory education owed;
    - ii. Assess the amount of compensatory education owed; and
    - iii. Develop a plan for delivering the compensatory education owed, including specific timelines for implementation and the person(s) responsible for overseeing full and timely implementation.
- IX. Within ninety (90) calendar days of this Agreement being signed, the District will submit to OCR:
- a. A copy of the meeting invitation sent to the Complainant;
  - b. Notes or minutes from the meeting, including documentation of any input provided by the Complainant;
  - c. A copy of the developed IEP;
  - d. The team's decision regarding compensatory education, the rationale for the decision, and whether the parent or guardian agreed with the decision;
  - e. Documentation showing that procedural safeguards were provided to the students' parents;
  - f. Any other documentation relevant to the determinations reached in accordance with Terms VIII and IX of this Agreement; and
  - g. The team's decision regarding continuing a shortened schedule, the rationale for the decision, and whether the parent or guardian agreed with the decision.
- X. 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 will notify the District when it has completed this review.<sup>5</sup>
- XI. The District will respond to OCR's concerns until OCR considers these resolved.
- XII. 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.

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<sup>5</sup> 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 team 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.

XIII. Within thirty (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 agreed upon compensatory services or remedial measures, if any. 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.

**Reimbursement**

- XIV. Within sixty (60) days from the date of this Agreement being signed, the District will reimburse the Complainant the monthly \$205 fee for Mascot Club paid in January, February, and March of 2017. For the Student's attendance at Mascot Club on January 31, 2017, February 10, 2017, and February 28, 2017, the District may reduce the monthly reimbursement by a prorated amount equal to the per day cost of the Mascot Club program.
- XV. Within thirty (30) days of reimbursement, the District will provide OCR with documentation that reimbursement has been provided to the Complainant.

**The District understands that:**

- OCR will close the monitoring of this Agreement once OCR determines that the District has fulfilled the terms of this Agreement.
- By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement.
- During the monitoring of the Agreement, if necessary, OCR may visit the District, interview employees of the District, 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 are in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.
- OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement.<sup>6</sup>

**For the District:**

/s/

11/20/2017

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Dr. James Lee, Superintendent

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Date

<sup>6</sup> Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Recipients written notice of the alleged breach(es) and sixty (60) calendar days to cure the alleged breach(es).