

Resolution Agreement
Sweetwater County School District No. 2
OCR Case Numbers 08-17-1363 & 08-17-1493

In order to resolve the open allegations in Case No. 08-17-1363, filed against the Sweetwater County School District No. 2 (District) and opened for investigation by the U.S. Department of Education, Office of 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. §§ 12131-12134, and its implementing regulation at 28 C.F.R. Part 35, the District agrees to take the actions outlined in this Resolution Agreement. The District's decision to enter into this agreement is not an admission of liability or wrongdoing, nor shall it be construed as such

1. **Section 504 Policies and Procedures Review.** The District will select a qualified individual to review the District's policies and procedures concerning the identification, evaluation, and placement of students with disabilities, in accordance with the requirements of Section 504 and Title II (Section 504 Policies).¹ The District agrees to ensure that all school specific policies and the District Section 504 Policies contain, at a minimum:
 - a. An explanation of how to file a complaint alleging discrimination or harassment on the basis of disability, as well as the policies the District will follow to ensure that its response to any such complaints is promptly and equitable;²
 - b. A statement that the District provides non-academic and extracurricular services and activities in a manner that affords students with disabilities an equal opportunity to participate in such services and activities;³
 - c. A statement that the District provides non-academic and extracurricular services and activities in a manner that affords students with disabilities an opportunity to participate, to the maximum extent appropriate, in such services and activities with students without disabilities;
 - d. A statement that with regard to extracurricular activities, the District will ensure that no students are subjected to categorical exclusion or different selection criteria because they have a disability and/or participate in an alternative academic program; and
 - e. The requirement that when an accommodation for a student with a disability is requested, District staff will make an individualized determination about whether the provision of an accommodation to the student is appropriate to ensure that the student receives an equal opportunity to participate in the program or activity.

¹ The qualified individual may be a highly qualified employee or an independent third-party consultant. The qualified individual is subject to OCR approval.

² The District will explain that when it receives a complaint alleging harassment, it will respond in a manner that is sufficient to determine what occurred and, if necessary, to stop the harassment, eliminate a hostile environment if one has been created, address the problems experienced by the individual who was harassed, prevent the harassment from recurring, and appropriately address the behavior of the harasser.

³ Non-academic and extracurricular services and activities include, but are not limited to, meals, recess periods, counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, and referrals to agencies which provide assistance to students with disabilities.

The District will also revise its Section 504 Accommodation Plan Form (Section 504 Form) to ensure that it includes a section for a student's 504 Team to include accommodations specific to non-academic and extracurricular services and activities.

Reporting Requirement 1: By February 16, 2018, the District will submit to OCR for approval the name and resume of the qualified individual (Reviewer 1) it intends to use to fulfill the terms of Agreement Item 1.

Reporting Requirement 2: Within 60 days of OCR's approval of Reviewer 1, the District will submit to OCR a report indicating whether revisions to the Section 504 Policies are necessary. If the District determines revisions are necessary, the District will submit to OCR a copy of the proposed revisions for OCR's review and approval. By this same date, the District will submit a draft of its revised Section 504 Form for OCR's review and approval.⁴

Reporting Requirement 3: Within 10 days of OCR's approval of the District's revised Section 504 Form, the District will begin utilizing the form.

Reporting Requirement 4: Within 30 days of OCR's approval of the District's revised Section 504 Policies, the District will:

- a. Implement the revised Section 504 Policies and provide notice of the revised Section 504 Policies to students, parents, and the general public through its publication sources (*i.e.* posting on the District website, on social media accounts, etc.);
 - b. Provide OCR with documentation demonstrating that it has implemented its revised Section 504 Form and Policies and provided notice of the policies;
 - c. Send a copy of the revised policies to the Complainant via certified mail, return receipt requested; and
 - d. Provide OCR with documentation demonstrating that the Section 504 Policies have been sent to the Complainant.
2. **Other Policy Review.** The District will select a qualified individual to review relevant District policies concerning: (a) XXX; (b) XXX team selection; and (c) attendance and participation in non-academic and extracurricular services and activities. The District agrees to ensure that its policies:
- a. Outline the rights specific to students who are placed XXX (X) to include a clear statement that students who are placed XXX are still students at the District school they enrolled in and will be subject to the same rules and policies as all other District students;⁵
 - b. Describe the system that the District has developed to ensure that X – PROVISION REDACTED – X; and

⁴ Where OCR's review and approval is indicated throughout this Agreement, the District will promptly and fully address feedback, if any, from OCR until it receives OCR's final approval of the letter.

⁵ The District will ensure that its XXX policies are consistently represented on District forms and policies regarding XXX, Section 504, XXX, and extracurricular activities.

- c. Do not categorically deny students XXX the opportunity to participate in extracurricular activities because of XXX attendance policies.⁶

Reporting Requirement 1: By February 16, 2018, the District will submit to OCR for approval the name and resume of the qualified individual (Reviewer 2) it intends to use to fulfill the terms of Agreement Item 2.

Reporting Requirement 2: Within 60 days of OCR’s approval of Reviewer 2, the District will submit to OCR a report indicating whether revisions to any of its XXX, attendance, extracurricular activity, or other policies are necessary. If the District determines revisions are necessary, the District will submit to OCR a copy of the proposed revisions for OCR’s review and approval.

Reporting Requirement 3: Within 30 days of OCR’s approval of the District’s revised policies, the District will:

- a. Implement the revised policies and provide notice of the revised policies to students, parents, and the general public through its publication sources (*i.e.* posting on the District website, on social media accounts, etc.);
- b. Provide OCR with documentation demonstrating that it has implemented its revised policies and provided notice of the policies;
- c. Send a copy of the revised policies to the Complainant via certified mail, return receipt requested; and
- d. Provide OCR with documentation demonstrating that the revised policies have been sent to the Complainant.

3. **Individual Remedial Action - Acknowledgement.** The District will send a letter to the Complainant and the Student. The letter will include:

- a. An acknowledgement that the District appreciates the Student and Complainant’s concerns regarding the Student not having the opportunity to XXX XXX during the 2017-2018 school year;
- b. An explanation of the steps the District is taking to ensure that its Section 504 Policies fully comply with Federal law, as specified in Agreement Items 1 and 2;
- c. Assurance that if the Student XXX XXX, the District will ensure that XXX is able to participate in extracurricular activities, including XXX, to the maximum extent appropriate under the law; and
- d. Documentation reflecting that the Student was withdrawn XXX XXX XXX school year.⁷

Reporting Requirement 1: By February 26, 2018, the District will submit a draft of the letter to OCR, for OCR’s review and approval.

⁶ Specifically, the extracurricular attendance policy will include assurance that it shall not be interpreted to require a student to physically be at school to be considered “present,” so long as the student completes any necessary components of his or her XXX, as indicated by his or her accommodation plan.

⁷ The District will include a copy of the Student’s transcript in its letter to the Complainant to demonstrate that the Student’s record does not reflect that X – PROVISION REDACTED – X.

Reporting Requirement 2: Within 30 days of OCR's approval of the District's letter, the District will send the letter to the Complainant via certified mail, return receipt requested. The District will copy OCR on this letter.⁸

- 4. Individual Remedial Action - Compensatory XXX.** The District will pay up to \$XX for the Student to attend XXX camp(s), lessons, or classes, of the Student's choosing. If the Student wishes to participate in any such activities, the Complainant or Student will inform the District of the camp(s), classes, or lessons the Student intends to participate in on or before May 1, 2018. The District will reimburse the Complainant the cost for the Student to attend such activities, up to \$XX, upon the Complainant's presentation of receipt(s) of payment.

Reporting Requirement 1: By March 1, 2018, the District will send a letter to the Complainant with its billing address and procedures and a contact person's name and telephone number so that the Complainant may contact the individual with any questions. The letter will explain that the Complainant must select the camp(s), lessons, and/or coaching sessions the Student will attend no later than May 1, 2018, that the Student must complete the activities by May 1, 2019, and that the Complainant must present receipts to the District by May 1, 2019. The letter will be sent via certified mail, return receipt requested, to the Complainant, and OCR will be copied on the letter.

Reporting Requirement 2: By May 8, 2018, the District will notify OCR of whether the Complainant or Student has decided to attend camp(s), lessons, or coaching sessions pursuant to the terms of this Agreement.

Reporting Requirement 3: If the Student decides to attend camp(s), lessons, or coaching sessions pursuant to the terms of this Agreement, the District will provide OCR with a letter with documentation of the name of the activity organizer, the dates of the activities, and confirmation that the District has reimbursed the Complainant for the costs of the activities, up to \$XX, consistent with the terms of Agreement Item 4, above, on August 8, 2018, November 8, 2018, February 8, 2019, and May 8, 2019.

- 5. Individual Remedial Action - Counseling.** The District will pay for up to twelve (12) sessions of counseling for the Student through a licensed clinician that is mutually agreed-upon by the Complainant and District, with an additional eight (8) sessions upon recommendation of the clinician. If the Student wishes to receive counseling, the Complainant or Student will choose the provider of such services on or before March 16, 2018, with services to be completed no later than March 16, 2019.⁹ The District will reimburse the Complainant the cost for the approved sessions upon the Complainant's presentation of receipt(s) of payment.

⁸ OCR will be copied via email, only, on all letters sent by the District pursuant to the terms of this Agreement. If OCR determines that any of the letters do not comply with the obligations of this Agreement, OCR will require that the District re-issue the letters with any appropriate corrections.

⁹ The provider of counseling services is subject to approval by the District. The District agrees not to unreasonably withhold such approval.

Reporting Requirement 1: By March 1, 2018, the District will send a letter to the Complainant with a list of suggested providers, its billing address and procedures and a contact person's name and telephone number so that the Complainant may contact the individual with any questions. The letter will explain that the Complainant must select a counseling provider by May 1, 2018 and complete the services May 1, 2019, and that the Complainant will be reimbursed upon presentation of receipt(s) for services. The letter will be sent via certified mail, return receipt requested, to the Complainant, and OCR will be copied on the letter.

Reporting Requirement 2: By May 8, 2018, the District will notify OCR of whether the Complainant or Student has chosen a provider and, if so, whether the District has approved the provider.

Reporting Requirement 3: If the Student pursues counseling consistent with the terms of this Agreement, the District will provide OCR with a letter with documentation of the name of the provider, the dates of services provided, and confirmation that the District has reimbursed the Complainant, consistent with the terms of Agreement Item 5, above, on August 8, 2018, November 8, 2018, February 8, 2019, and May 8, 2019.

6. **Individual Remedial Action - College Advising.** The District will pay for up to eight (8) sessions of college admissions advising for the Student through a provider that is mutually agreed-upon by the Complainant and District.¹⁰ If the Student wishes to receive college admissions advising, the Complainant or Student will choose the provider of such services on or before May 1, 2018, with services to be completed no later than May 1, 2019.¹¹ The District will reimburse the Complainant the cost for the sessions upon the Complainant's presentation of receipt(s) of payment.

Reporting Requirement 1: By March 1, 2018, the District will send a letter to the Complainant with its billing address and procedures and a contact person's name and telephone number so that the Complainant may contact the individual with any questions. The letter will explain that the Complainant must select a college admissions advisor by May 1, 2018 and complete the services by May 1, 2019, and that the Complainant will be reimbursed upon presentation of receipt of receipt(s) for services. The letter will also include information on additional college advising services that can be obtained at no cost to the Complainant. The letter will be sent via certified mail, return receipt requested, to the Complainant, and OCR will be copied on the letter.

Reporting Requirement 2: By May 8, 2018, the District will notify OCR of whether the Complainant or Student has chosen a provider and, if so, whether the District has approved the provider.

Reporting Requirement 3: If the Student pursues college admissions advising consistent with the terms of this Agreement, the District will provide OCR with a letter with documentation of the name of the provider, the dates of services provided, and confirmation

¹⁰ "College admissions advising" includes college admissions-related tutoring, coaching, and counseling, as well.

¹¹ The provider of college advising services is subject to approval by the District. The District agrees not to unreasonably withhold such approval.

that the District reimbursed the Complainant, consistent with the terms of Agreement Item 6, above, on or before May 8, 2019.

- 7. Training.** The District will select a qualified individual to provide training to all District staff, including all coaches and advisors of extracurricular clubs and activities, on the Section 504 regulation at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, 104.35, and 104.36. This training will highlight the rights of students with disabilities to have the opportunity to participate in or benefit from extracurricular activities that is equal to the opportunity afforded to students without disabilities and also discuss policy revisions made consistent with Agreement Items 1 and 2.

Reporting Requirement 1: By February 16, 2018, the District will submit to OCR for approval the name and resume of the highly qualified employee or independent third-party consultant (Trainer) it intends to use to fulfill the terms of this Agreement Item.

Reporting Requirement 2: Within 30 days of OCR's approval of the District's revised Section 504 Policies and "Other Policies" or within 60 days of OCR's approval of the Trainer (whichever is later), the District will submit to OCR a draft of the training materials the District intends to use for OCR's review and approval.

Reporting Requirement 3: Within 30 days of OCR's approval of the proposed training materials or by September 1, 2018, whichever is last to occur, the District will provide to OCR documentation describing the trainings it has provided to District teachers, coaches, administrators, school aids, and other District personnel, including sign-in sheets, agendas, all materials distributed.

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 at 34 C.F.R. §§ 104.4(a), 104.33, 104.34, 104.35, and 104.61, and Title II at 28 C.F.R. § 35.130(a), which were at issue in these cases. Upon completion of the obligations under this Agreement, OCR shall close and dismiss these cases.

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.

/s/

2/12/2018

Donna Little-Kaumo, Superintendent
Sweetwater County School District No. 2

Date