

RESOLUTION AGREEMENT

PLC Charter Schools Arts Academy at Estrella Mountain OCR Case Number 08-19-1037

PLC Charter Schools (“District”) enters into this Agreement to resolve an allegation in the above-referenced complaint. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District. The District assures the U.S. Department of Education, Office for Civil Rights (OCR) that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), as amended, 29 United States Code (U.S.C.) Section 794, and its implementing regulation, at 34 Code of Federal Regulations (C.F.R.) Part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

Prior to the completion of OCR’s investigation, the District agreed to resolve issues in this case pursuant to Section 302 of OCR’s *Case Processing Manual*. Accordingly, to resolve the issue, the District agrees to implement the following terms and reporting requirements.

Term I: The District will identify all students who currently attend the School and who should have had a Section 504 plan at the beginning of the 2018-2019 school year (SY).

Term I Reporting Requirements:

- A. Within thirty (30) calendar days of this Agreement being signed, the District will identify all students who currently attend the School and who should have had a Section 504 plan at the beginning of the 2018-2019 SY.¹ The District will identify the students by, at a minimum:
 - i. reviewing records that are available to the District, including, but not limited to, emails regarding Section 504 plans during the 2017-2018 SY;
 - ii. surveying School staff, in writing, to request the names of students who had Section 504 plans during the 2017-2018 SY; and
 - iii. surveying all parents of students attending the School, in writing, to ask if their student had a Section 504 plan during the 2017-2018 SY.
- B. Within thirty (30) calendar days of this Agreement being signed, the District will provide to OCR a copy of the survey, copies of the survey responses, and a list of the students identified pursuant to Term I-Reporting Requirement A, including for each student:
 - i. first and last name;
 - ii. grade;
 - iii. disability or disabilities; and
 - iv. how the District learned that the Student should have had a Section 504 plan at the beginning of the 2018-2019 SY.²
- C. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that Term I has been completely fulfilled.

¹ The list will include the Complainant’s son.

² e.g., an email found on the District’s servers, a survey response, etc.

Term II: The District will ensure that, consistent with the procedural requirements of Section 504,³ each student identified for Term I: (a) has a Section 504 plan that is designed to provide the student with a free appropriate public education (FAPE),⁴ unless the student is determined to no longer be a qualified student with a disability⁵ or there is some other legally recognized reason for not providing the student with a Section 504 plan; and (b) receives, in a timely manner, any compensatory services or other remedial actions owed to the student as a result of the School's failure, during the 2018-2019 SY, to implement a Section 504 plan that should have been in place for the student.

Term II Reporting Requirements:

- A. Within sixty (60) calendar days of this Agreement being signed, the District will convene a Section 504 team⁶ meeting to: discuss whether the student is still eligible for a Section 504 plan, and if so, create a new Section 504 plan for the student; and discuss compensatory services and other remedial actions for the student, at no cost to the student or parent, as a result of the School's failure to implement a Section 504 plan for the student during the 2018-2019 SY. If the team decides that compensatory services or other remedial actions are owed to the student,⁷ the team will then: assess the amount and type of compensatory services or other remedial actions that need to be provided; and create a written plan to deliver the compensatory services or other remedial actions, including a specific timeline for delivery, the person(s) responsible for providing the services, and the person(s) responsible for overseeing timely and complete implementation of the services. All decisions will reflect the judgment of the group, not the judgment of a single individual.
- i. At least one week before each meeting, the District will invite the student's parent(s), in writing, to the meeting. The invitation will provide: the reasons for the meeting; the agenda for the meeting; and notice that the parent may invite other persons knowledgeable about the student to attend the meeting.
 - ii. At each meeting, the District will: provide the student's parent(s) with a meaningful opportunity to provide input;⁸ document the names and titles/positions of individuals present; and take detailed notes of the discussions.
 - iii. Within one week of each meeting, the District will provide the student's parent(s) with: written notice of the decisions made;⁹ and a copy of the District's procedural safeguards.¹⁰
- B. Within seventy-five (75) calendar days of this Agreement being signed, the District will submit to OCR a report that includes, for each student identified for Term I, copies of:
- i. the written invitation to the student's parent(s) to attend the Section 504 team meeting;
 - ii. an attendance list from the Section 504 team meeting, including the name and title/position for each attendee;

³ See 34 C.F.R. §§ 104.35-36.

⁴ See 34 C.F.R. § 104.33.

⁵ See 34 C.F.R. § 104.3(l).

⁶ The District will ensure that the team includes "persons knowledgeable about the child, the meaning of the evaluation data, and the placement options." See 34 C.F.R. § 104.35(c).

⁷ *i.e.*, that the student was denied FAPE as a result of the School's failure to implement his or her Section 504 plan

⁸ If the student's parent refuses to attend and or declines the opportunity to attend the meeting, this requirement is waived. The District will document that it made multiple attempts to contact the student's parent(s), and provide such documentation to OCR.

⁹ *e.g.*, prior written notice

¹⁰ See 34 C.F.R. § 104.36.

- iii. notes of the Section 504 team meeting discussions, including documentation of the parent's input and the reasons for each decision made;
 - iv. the written notice of the decisions made to the student's parent(s);
 - v. any documentation relevant to the decisions made;
 - vi. documentation showing that the student's parent(s) was provided with a copy of the District's procedural safeguards;¹¹ and
 - vii. the student's Section 504 plan, if one is created.
- C. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the District's fulfillment of Term II-Reporting Requirements A and B.¹²
 - D. If the teams decide that compensatory services or other remedial actions are owed to any students, the District will submit to OCR, within fifteen (15) calendar days of providing all of the compensatory services or other remedial actions to each student, documentation showing that all of the compensatory services or other remedial actions were provided to the student.¹³
 - E. The District will promptly and fully address OCR's feedback, if any, until OCR notifies the District that Term II has been completely fulfilled.

Term III: The District will ensure that students' Section 504 plans are properly maintained and provided to necessary staff in a timely manner.

Term III Reporting Requirements:

- A. Within thirty (30) calendar days of this Agreement being signed, the District will submit to OCR a proposed written plan for how students' Section 504 plans will be: securely maintained; and provided to all School staff who are responsible for implementing them, prior to the beginning of each term (*i.e.*, each time students are scheduled to change teachers) and each time a Section 504 plan is changed.
- B. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the plan.
- C. Within fifteen (15) calendar days of receiving OCR's final approval of the plan, the District will submit to OCR a draft memo to all School staff:
 - i. notifying them of the plan (with the plan attached);
 - ii. reminding them of the School's legal obligation to provide qualified students with disabilities a FAPE, including fully implementing, throughout the entire school year, students' Section 504 plans; and
 - iii. providing them with the name(s), title(s) or position(s), phone number(s), and email address(es) for staff who are designated to respond to questions and concerns.
- D. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the memo.
- E. Within fifteen (15) calendar days of receiving OCR's final approval of the memo, the District will:
 - i. disseminate the memo to all School staff; and

¹¹ *e.g.*, the parent's signature acknowledging receipt

¹² 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. §§ 104.34-36. 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 the event that a Section 504 team proposes compensatory services or remedial actions that 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.

¹³ *e.g.*, a service delivery log

- ii. submit to OCR documentation showing that the memo was disseminated to all School staff.¹⁴
- F. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that Term III has been completely fulfilled.

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. Sections 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR will 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 the foregoing 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 School, 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 are in compliance with Section 504, and its implementing regulation, and Title II, and its implementing regulation. Upon completion of the obligations under this Agreement, OCR will close this case.

For PLC Charter Schools and Arts Academy at Estrella Mountain:

/s/ _____
Ms. Vicki Higgins, Principal

11/29/18 _____
Date

¹⁴ e.g., a copy of an email showing the recipients and attachment(s)