

## **Resolution Agreement**

### **Thompson School District OCR Case Number 08-19-1218**

In order to resolve the allegations in OCR Case Number 08-19-1218 filed against Thompson 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.

During the course of OCR's investigation, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. The Agreement requirements are aligned with the identified issue and consistent with Section 504's and Title II's regulatory requirements. 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. The District will provide the Complainant with the contact information for a District special education representative who she may contact with questions about the Student's IEP/Section 504 Plan and its implementation, information from the District's Special Education Advisory Committee, and a list of disability advocates, including contact information.

**REPORTING REQUIREMENT A:** Within two business days following the execution of this Agreement, the District shall provide OCR with a draft of the information it intends to share with the Complainant for OCR's review and approval.

**REPORTING REQUIREMENT B:** Within five business days following OCR's approval of the District's proposed communication with the Complainant, the District shall provide OCR with documentation demonstrating its delivery of the required information.

2. By September 9, 2019, the District will convene an Individualized Education Program (IEP) team meeting for the express purpose of considering whether compensatory services are to be provided. The District will invite the Complainant to participate in the meeting as part of the Student's IEP team. The purpose of the meeting is to determine whether the Student consistently and fully received accommodations in his Fall 2018 XXX class, as required by his IEP in effect at the time he was enrolled in the course. If the IEP team determines that the IEP was not fully implemented for any period of time, it will also determine the amount and nature of compensatory services, if any, the District will provide, or other remedial measures the District will take, to remedy the failure to implement the Student's IEP in the Fall 2018 XXX class. The District will not ask the Student to re-take exams or retroactively complete assignments.

**REPORTING REQUIREMENT A:** Within 15 days after the meeting, the District will provide OCR with a statement that it has complied with Agreement Item 2 of this Agreement. Additionally, the District will provide OCR with a copy of the meeting notes that reflect information the IEP team considered and the rationale for its decisions. If the Complainant declines the invitation to the meeting, the District shall provide a copy of the invitation to the meeting and any notes and records of communications with the Complainant showing the Complainant's declination.

If the District determines that no compensatory services will be provided, the District will provide to OCR 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 regulations implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36 And Title II, in making these determinations, and notify the District when it has completed this review.<sup>1</sup>

**REPORTING REQUIREMENT B:** After OCR has determined that the Section 504 procedural requirements were met in making the determination under Agreement Item 2, the District will take steps to implement the compensatory services and remedial measures, if any, agreed upon by the IEP team.

Within 90 days from the date of OCR's acceptance of the proposed compensatory services and remedial measures, if any, the District will provide documentation that it has provided or is in the process of providing the compensatory services and remedial measures. For compensatory services and remedial measures that will occur over time, the District will submit documentation regarding the specific timelines for implementation, the person(s) responsible for providing services, 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, and the District will provide an additional letter to OCR confirming all compensatory services and remedial measures have been provided in full.

3. By August 30, 2019, the District will provide notice to all the Student's SY 2019-2020 teachers to inform them of the Student's IEP, the accommodations they are responsible for implementing, and who they may contact if they have any questions. This notice will inform the Student's teachers that implementation of the IEP is mandatory and it is not the Student's responsibility to request that his IEP be followed.

**REPORTING REQUIREMENT A:** Within ten days of providing notice to the Student's teachers, the District will provide OCR with a copy of the Student's class

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<sup>1</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by an IEP or 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 IEP or Section 504 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.

schedule, a copy of the notice that was issued to teachers, and a description of how the notice was disseminated.

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 Section 504 and its implementing regulation at 34 C.F.R. part 104 and Title II and its implementing regulation at 28 C.F.R. part 35, which were at issue in this case.

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 and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. part 104 and Title II and its implementing regulation at 28 C.F.R. part 35, 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 the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

8/16/2019

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Dr. Marc Schaffer, Superintendent  
For Thompson School District

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Date