

RESOLUTION AGREEMENT

Glendale Elementary School District Office for Civil Rights Case 08-19-1435

Glendale Elementary School District (“District”) enters into this Agreement to resolve an allegation in the above-referenced case. 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 OCR issuing a final determination pursuant to Section 303 of OCR’s *Case Processing Manual* (CPM), the District agreed to resolve the issue in this case pursuant to Section 302 of the CPM. Accordingly, to resolve the issue, the District agrees to implement the following terms and comply with the following reporting requirements.

TERM I: POLICY OR REGULATION

The District will create and disseminate a policy regarding the participation of students with disabilities in non-academic and extracurricular services and activities, including fieldtrips. The policy will address, at a minimum:

- A. Section 504’s prohibition on the District, in providing any aid, benefit, or service directly or through contractual, licensing, or other arrangements, from denying a student with a disability the opportunity to participate in or benefit from the aid, benefit, or service on the basis of disability;¹
- B. the District’s obligation to provide non-academic and extracurricular services and activities, including fieldtrips, in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities;²
- C. the District’s obligation to conduct an individualized inquiry to determine whether reasonable modifications or necessary aids and services would provide a student with a disability with an equal opportunity to participate in non-academic and extracurricular activities, including fieldtrips;³
- D. the District’s obligation, in providing or arranging for the provision of nonacademic and extracurricular services and activities, including fieldtrips, to ensure that students with disabilities participate with students without disabilities in such activities and services to the maximum extent appropriate to the needs of the students with a disability in question;⁴ and

¹ See 34 C.F.R. 104.4(b)(1)(i).

² See 34 C.F.R. 104.37(a)(1).

³ See 34 C.F.R. 104.34(b). A district need not provide a modification if it can show that doing so would constitute a fundamental alteration to its program. Section 504 does not require districts to create alternative programs for students with disabilities who cannot participate in extracurricular activities with accommodations.

⁴ See 34 C.F.R. 104.34(b).

- E. the District’s obligation to apply the policy or regulation to students with disabilities in self-contained settings.

The District will disseminate the final policy or regulation, including:

- A. sending it to all District Special Education Department staff;
- B. sending it to all school-based administrators,⁵ special education coordinators or department chairs, special education teachers, psychologists, and nurses in the District;
- C. sending it to all parents and guardians of students with disabilities who attend Discovery School (“School”);
- D. adding it to the District’s “Special Education Public Notice” webpage;⁶
- E. adding it to the Special Education section of the District’s “Parent and Student Handbook,”⁷ and the School’s handbook, if it has a separate handbook; and
- F. adding it to the School’s website homepage.⁸

Term I Reporting Requirements:

- A. Within 60 calendar days of this Agreement being signed, the District will submit to OCR for review and approval a draft policy or regulation that includes, at a minimum, the content required by Term I. The District will respond promptly and completely to OCR’s feedback until the District receives OCR’s approval of a final policy or regulation.
- B. Within 30 calendar days of receiving OCR’s final approval of the policy or regulation, the District will: (i) disseminate the approved policy or regulation as required by Term I; and (ii) submit to OCR evidence that the approved policy or regulation was disseminated as required.⁹ The District will respond promptly and completely to OCR’s feedback until the District receives notice from OCR that no further reporting is required for Term I.

TERM II: STAFF TRAINING

The District will train all relevant staff at the School about the participation of students with disabilities in non-academic and extracurricular services and activities, including fieldtrips. The training will cover: (i) all components of the final policy or regulation approved pursuant to Term I; and (ii) the name, title or position, email address, and phone number of a District staff member who is qualified and available to answer questions from School staff regarding implementation of the final policy or regulation.

Term II Reporting Requirements:

- A. Within 30 calendar days of receiving OCR’s final approval of the policy or regulation pursuant to Term I, the District will submit to OCR for review and approval: (i) draft training materials; (ii) the name(s), title(s) or position(s), and qualifications of one or more qualified individuals to conduct the training; and (iii) the names and titles or positions of all staff to be trained. The

⁵ *i.e.*, principals, assistant principals or vice principals, and deans

⁶ See <https://portals.gesd40.org/Page/2012>.

⁷ See <https://portals.gesd40.org/Page/1832>.

⁸ See <https://portals.gesd40.org/Domain/14>.

⁹ *e.g.*, hyperlinks, screenshots, copies of emails showing the recipients and attachment(s), or names and signatures acknowledging receipt

District will respond promptly and completely to OCR's feedback until the District receives OCR's final approval of the training materials and trainer(s).

- B. Within 60 calendar days of receiving OCR's final approval of the training materials and trainer(s), the District will provide the training. Within 20 calendar days of the training being provided, the District will provide to OCR: (i) the date, time, and location of the training; (ii) confirmation that the training materials OCR approved were used; (iii) confirmation that the trainer who OCR approved delivered the training; (iv) the names and titles or positions of all staff who attended the training; and (v) the names and titles or positions of all staff, if any, who were required to attend the training, but did not attend; an explanation for their absence; and the plan to train them. The District will respond promptly and completely to OCR's feedback until the District receives notice from OCR that no further reporting is required for Term II.

TERM III: TEAM MEETINGS FOR INDIVIDUAL STUDENTS

The District will provide an opportunity for parents and guardians of all students with disabilities at the School who were in seventh grade during the 2018-2019 school year (SY) and whose placement was a self-contained setting during the 2018-2019 SY to request a team meeting to determine if any reasonable modifications, aids, or services are necessary to provide their student with an equal opportunity to participate in non-academic and extracurricular activities, including fieldtrips, with students without disabilities to the maximum extent appropriate, and to discuss any compensatory services for a missed fieldtrip to an amusement park in spring 2019. If any parents or guardians request a team meeting, the District will convene the team meeting.

Term III Reporting Requirements:

- A. Within 30 calendar days of this Agreement being signed, the School will: (i) notify the parents or guardians that they may reply to request a team meeting to determine if any reasonable modifications, aids, or services are necessary to provide their student with an equal opportunity to participate in non-academic and extracurricular activities, including fieldtrips, with students without disabilities to the maximum extent appropriate, and to discuss compensatory services for a missed fieldtrip to an amusement park in spring 2019; (ii) submit to OCR a list of all students to whom Term III applies; and (iii) submit to OCR copies of all invitations sent. The District will respond promptly and completely to OCR's feedback until the District receives notice from OCR that Term III – Reporting Requirement A has been fulfilled.
- B. Within 30 calendar days of all notifications being sent pursuant to Term III – Reporting Requirement A, the District will submit to OCR copies of all responses from parents or guardians, if any. The District will respond promptly and completely to OCR's feedback, if any.
- C. The District will convene team meetings for all students whose parents or guardians request a meeting, if any, within 30 calendar days of receiving the request.¹⁰ In convening and conducting any team meetings, the District will follow the procedural requirements of Section 504.¹¹ Within 30 calendar days of all meetings taking place, if any, the District will submit to OCR documentation showing: (i) the meeting attendees, including names and titles or positions; (ii) the topics discussed, perspectives shared, requests or suggestions made, and decisions made at the meeting; and (iii) any plans made for providing modifications, aids, or services to the student

¹⁰ Meeting topics are not necessarily limited to issues covered by this Agreement. For example, the issues covered by this Agreement may be discussed during a broader annual review or re-evaluation meeting.

¹¹ See 34 C.F.R. Sections 104.35-37.

to allow him or her an equal opportunity to participate in non-academic and extracurricular activities, including fieldtrips, with students without disabilities to the maximum extent appropriate; and (iv) the decision regarding compensatory services for the missed fieldtrip to an amusement park in spring 2019.¹² The District will respond promptly and completely to OCR's feedback until the District receives notice from OCR that no further reporting is required for Term III.

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 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 Glendale Elementary School District:

/s/
Cindy Segotta-Jones, Superintendent

8/20/19
Date

¹² The documentation may include prior written notices and individualized education programs that contain all of the relevant information.