

**Resolution Agreement
Paradise Valley Unified School District
OCR Case Number 08-19-1478**

The U. S. Department of Education, Office for Civil Rights (OCR) and Paradise Valley Unified School District (District) enter 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 OCR that it will take the following actions to comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 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. Sections 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 the issue of this investigation pursuant to Section 302 of OCR’s Case Processing Manual. Accordingly, to resolve the issue of this investigation, the District agrees to take the following actions.

I. Staff Training. The District agrees to provide training to all staff and administrators at XXXX Elementary School (School) on the following topics:

1. The definition of physical restraint and the types of touching that qualify as physical restraint.
2. Under what circumstances physical restraint may be the used.
3. The notice requirements to parents/guardians when physical restraint is used.
4. The documentation requirements when physical restraint is used.
5. The use of positive behavioral intervention strategies (PBIS) and de-escalation techniques.

REPORTING REQUIREMENTS I(A): By November 1, 2020, the District will submit to OCR for review and approval:

1. Draft materials that will be used to train School staff.
2. The name(s), title(s) or position(s), and qualifications of one or more proposed individuals to provide the training to the School’s staff and administrators;
3. A current administrator and staff roster at the School, by name and title.

REPORTING REQUIREMENTS I(B): Within thirty (30) calendar days of receiving OCR’s final approval of the materials and trainer(s), the District will provide the training to all staff and administrators at the School.

REPORTING REQUIREMENTS I(C): Within fifteen (15) calendar days of the training being provided; the District will provide to OCR:

1. the date, time, and location of the training;
2. confirmation that the approved trainer(s) delivered the training;
3. the agenda and materials from the training;

4. a copy of the sign-in sheet or other documentation indicating that all administrators and staff attended the training.
5. For any staff or administrators who did not attend or otherwise complete the training, provide their names/titles and a plan to have them trained by December 1, 2020.

II. IEP Meeting and Compensatory Education. The District agrees to hold an IEP meeting for the purpose of determining the compensatory services to which the Student is entitled, developing a plan for providing those compensatory services to the Student, and developing a plan to ensure the Student has appropriate behavioral supports while at school. Specifically, the Team will consider what, if any, compensatory services, XXXX are owed to the student as a result of the Student's XXXX. Based on the IEP team's findings, the Team will determine the type and number of hours of compensatory services to make up for any missed educational services. The Team will then develop a plan for providing those compensatory services to the Student. The District shall promptly notify the Complainant in writing of the compensatory services being offered at no cost to the Complainant and the proposed, prompt initiation date of such services. The District will ensure that any decisions during the IEP meeting reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Complainant is invited to the meeting and will permit the Complainant to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Complainant and Complainant's invitees. The Team will include District employees who have knowledge of the matters being considered by the Team. Additionally, the parties will discuss any behavioral supports that may be appropriate for the Student.

REPORTING REQUIREMENTS II(A): By November 1, 2020, the District will provide OCR with:

1. A copy of the meeting invitation sent to the Complainant;
2. Notes or minutes from the meeting, including documentation of any input provided by the Complainant and considered by the IEP team;
3. A copy of the IEP that was developed or revised after the meeting, if any;
4. The team's decision regarding compensatory services or education, the rationale for the decision, and a statement of whether the parent or guardian agreed with the decision; and
5. Documentation that the parent or guardian were provided notice of the applicable procedural safeguards

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.¹

REPORTING REQUIREMENTS II(B): By January 1, 2021, and if the IEP team determined that compensatory services were needed, the District will provide documentation that it has

¹ 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

provided or is in the process of providing the agreed upon compensatory services. For compensatory services that will occur over time, the District will submit documentation regarding the specific timelines for implementation, the person(s) responsible for overseeing its full and timely implementation, and supporting documentation establishing that the compensatory services 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.²

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 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 Title II. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the District's representative below.

For the District:

/s/

9/18/2020

Dr. Jesse Welsh, Superintendent

Date

² District will consider and respond to any feedback from OCR with respect to the proposed compensatory services or remedial measures.