

RESOLUTION AGREEMENT

Amphitheater Public Schools 08-19-1499, 08-20-1059

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and Amphitheater Public Schools (District) enter into this agreement to resolve the allegations in the above referenced complaints. 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 the requirements of 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.

Individual Remedies

- A. Within 30 days of the date of this Agreement, the District shall convene a meeting with all of the Student's teachers, facilitated by the District's Executive Director of Student Services, to review the Student's current individualized education program (IEP) and discuss the accommodations within the plan.

REPORTING REQUIREMENT: Within 15 days of the meeting described in Paragraph A, the District will submit documentation to OCR that includes:

- i. A list of the individuals who attended the teacher meeting by name and title; and,
 - ii. A copy of the teacher meeting agenda and/or a copy of materials reviewed during the meeting.
- B. Within 30 days of the date of this Agreement, the District shall offer to the Complainant to conduct an evaluation of and subsequently convene a Section 504 team¹ meeting to make a placement determination for the Student, in accordance with Section 504 requirements of 34 C.F.R. §§ 104.31 through 104.35 regarding the identification, evaluation, and educational placement of students who, because of a disability, need or are believed to need special education or related services. The District will also provide the Complainant with notice of the District's system of applicable procedural safeguards.²

¹ The Student's team will include a group of individuals who are knowledgeable about the Student; the meaning of relevant evaluation data, including medical evidence; and placement options.

² The District may choose to satisfy the requirements of Section 504 through compliance with the Individuals with Disability Education Act (IDEA). In specific instances detailed in the Section 504 regulation, meeting the requirements of IDEA is one means of meeting the requirements of the Section 504 implementing regulation.

If the team identifies the Student as a student with a disability and develops an IEP and/or Section 504 plan for the Student, the District shall also convene a meeting within 15 days of the creation of the plan with all of the Student's teachers, facilitated by the District's Executive Director of Student Services, to review the Student's IEP and/or Section 504 plan and discuss the accommodations within the plan.

REPORTING REQUIREMENT: Within 30 days of convening the Section 504 team meeting described in Paragraph B, the District will submit documentation to OCR that includes:

- i. Documentation of the District's offer to the Complainant to evaluate the Student;
- ii. Documentation of whether the Complainant provided consent to the District to evaluate the Student. If the Complainant refuses consent, provide a copy of any communications with the Complainant demonstrating the refusal;
- iii. A list of the individuals who attended the team meeting(s) by name, title, and role in the meeting;
- iv. Documentation of the District's invitation to the Complainant to attend the team meeting(s) and obtain his input. If the Complainant declines the invitation to the meeting, provide a copy of any communications with the Complainant demonstrating the declination;
- v. Notes from the team meeting documenting that the team carefully considered input from the persons knowledgeable about the Student, the meaning of evaluation data, and placement options; and,
- vi. Documentation that the District provided the Complainant with notice of his and the Student's rights and applicable procedural safeguards under Section 504.

If a subsequent or revised IEP and/or Section 504 plan is created, therefore requiring a meeting(s) with the Student's teachers, facilitated by the District's Executive Director of Student Services, the District will submit documentation to OCR that includes:

- vii. A list of the individuals who attended the teacher meeting by name and title; and,
- viii. A copy of the teacher meeting agenda and/or a copy of materials reviewed during the meeting.

- C. Within 30 days of the date of this Agreement, the District shall convene the Student's Section 504 team to consider whether the Student was denied a free appropriate public education (FAPE) in a timely manner and, as a result, whether compensatory education or related services are necessary.

If the Student's team determines that compensatory education or related services are necessary, the team will develop a plan for providing those compensatory services to the Student before the beginning of the 2020-2021 school year. The District shall promptly

notify the Complainant, in writing, of the compensatory services being offered at no cost and the proposed initiation date of such services.

REPORTING REQUIREMENT: Within 15 days of the meeting described in Paragraph C, the District will submit documentation to OCR that includes:

- i. A copy of the summary of information the team considered in reaching its determination regarding whether and, if so, what compensatory services are appropriate for the Student;
- ii. Documentation of the team's decision as to whether and, if so, what compensatory services are necessary for the Student and the basis for those decisions;
- iii. If applicable, a plan for the prompt provision of compensatory services to the Student at no cost to the Complainant; and,
- iv. If applicable, documentation that the Complainant was notified in writing of the compensatory education and related services offered by the District.

School-wide Remedies

- D.** No later than 30 days after the beginning of the 2020-2021 school year, the District will provide training to all School coaching staff that interact with administrators, staff, parents, and/or students regarding the District's non-discrimination policies and procedures. The training, which may be provided by digital instruction, will address, but need not be limited to, the following:
- a. The contact information for the District's Section 504 compliance coordinator;
 - b. The appropriate School-level administrators with whom the coaching staff should communicate when instances of bullying, harassment, or retaliation on the basis of disability are observed;
 - c. An explanation of the prohibition against discrimination and retaliation; and,
 - d. Information regarding how to file a complaint of discrimination, both with the District and OCR.

REPORTING REQUIREMENT: Within 15 days of the training described in Paragraph D, the District will submit documentation to OCR that demonstrates that the training was conducted. The documentation will include a list that reflects all School coaching staff received or participated in the training.

- E.** Before the end of the 2019-2020 school year, the District will provide training to all School staff, including instructional and non-instructional staff, regarding the District's non-discrimination policies and procedures. The training, which may be provided by digital instruction, will address, but need not be limited to, the following:
- a. Admonishment of the use of the negative or derogatory terms, when referencing students with disabilities;
 - b. The contact information for the District's Section 504 compliance coordinator;

- c. An explanation of the prohibition against discrimination and retaliation; and,
- d. Information regarding how to file a complaint of discrimination, both with the District and OCR.

REPORTING REQUIREMENT: Within 15 days of the training described in Paragraph E, the District will submit documentation to OCR that demonstrates that the training was conducted. The documentation will include a list that reflects all School staff received or participated in the training.

District-wide Remedies

- F. Within 75 days of the date of this Agreement, the District will create and begin distributing a notice of the District's non-discrimination policies and procedures to any entity or organization to which the District provides significant assistance.³

REPORTING REQUIREMENT: Within 90 days of the date of this Agreement, the District will submit documentation to OCR that demonstrates the notice described in Paragraph F was created and will describe the mechanism by which the District assures all entities and organizations to which the District provides significant assistance are provided with the notice.

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 its implementing regulations 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

³ In addition to its explicit prohibition of disability discrimination, the regulation implementing Section 504, at 34 C.F.R. § 104.4 (b)(1)(v), prohibits a recipient from aiding or perpetuating discrimination against a qualified person with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity. The regulation implementing Title II, at 28 C.F.R. § 35.130(b)(1)(v), contains substantially the same provision. Appendix A of the regulation implementing Section 504 prohibits financial support by a recipient to a community recreational group or to a professional or social organization that discriminates against persons with disabilities.

Whether a recipient provides significant assistance at the time of an alleged discriminatory incident turns on the facts and circumstances of the specific situation. Among the criteria to be considered in determining significant assistance are the substantiality of the relationship between the recipient and the other entity, including financial support by the recipient, and whether the other entity's activities relate so closely to the recipient's program or activity that they fairly should be considered activities of the recipient itself. Other factors include the provision of tangible resources (e.g., staff, equipment, and facilities), intangible benefits (e.g. recognition and approval), selectively providing privileges and resources to the other entity, and whether the relationship is occasional and temporary or permanent and long-term. If OCR finds that a recipient is providing significant assistance to an agency or organization that discriminates on the basis of disability, the recipient must either obtain compliance or terminate the assistance.

this case. 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 the 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/
Mr. Todd Jaeger, J.D.
Superintendent
For Amphitheater Public Schools

01/28/2020
Date