

RESOLUTION AGREEMENT
Laveen Elementary School District No. 59
OCR Case Numbers 08-20-1247 and 08-20-1342

Laveen Elementary School District No. 59 (District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced complaints and ensuring compliance with 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; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35; and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d - 2000d-7, and its implementing regulation at 34 C.F.R. § 100 (Title VI).

Prior to OCR's completion of its investigation, the District indicated its willingness to take steps necessary to ensure compliance with Section 504, Title II, and Title VI. Pursuant to Section 302 of OCR's *Case Processing Manual*, complaint allegations may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the allegations, OCR believes that doing so is appropriate, and the agreement's remedies align with the allegations and are consistent with Section 504, Title II, and Title VI'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. To resolve OCR Case Numbers 08-20-1247 and 08-20-1342, the District agrees to implement the following terms and fulfill the following reporting requirements.

- 1. Parent Liaison** –By July 31, 2020, the District will identify and introduce the Complainant to a District Parent Liaison, who will be available to assist the Complainant with educational matters related to the Student's disability-related needs and parental concerns during the 2020-2021 school year.

REPORTING REQUIREMENT A: By August 7, 2020, the District will provide OCR with documentation demonstrating that the introduction has been made and that the Complainant has been informed of how she may contact the Parent Liaison and what support she can reasonably expect from the Parent Liaison.

- 2. Communication** – By August 31, 2020, the District will facilitate a discussion with the Complainant, and include the Parent Liaison, regarding the existing communication plan.¹ During this discussion, the District will articulate the terms that must be met for the communication plan to be terminated and will commit to holding a meeting to review whether the Complainant has complied with the terms by December 18, 2020.

The District agrees that if the Complainant meets the terms and expectations set forth during the Summer 2020 discussion within the established timeframes, the District will eliminate the communication plan.

REPORTING REQUIREMENT A: By September 8, 2020, the District will provide OCR with documentation demonstrating that the Complainant has been informed of the District's expectations regarding the communication plan, the established timeframes for her to comply with the communication plan, and a proposed date for the District to re-evaluate whether a communication plan is necessary.

¹ lines to have the Parent Liaison participate, the District may facilitate the discussion without Liaison's participation.

REPORTING REQUIREMENT B: By January 8, 2021, the District will provide OCR with documentation demonstrating that it met with the Complainant to review whether she complied with the terms of the communication plan. Specifically, the District will notify OCR of the outcome of the meeting, explain how it determined whether the Complainant met the terms of the communication plan, and provide OCR with copies of all meeting invitation(s) and meeting notes. The District will address OCR's concerns with the implementation of this term, if any, until OCR considers the concerns resolved.

3. IEP Meeting – By August 31, 2020, the District will convene an Individualized Education Program (IEP) meeting² (Team) and invite the Complainant and the Parent Liaison to participate in the meeting as part of the Student's IEP team. The purpose of the meeting is to determine whether the District: (a) provided the Student with a voluntary homework packet from March 9-23, 2020; and (b) implemented the Student's IEP by XXXX from March 16, 2020 until the end of the 2019-2020 school year.

The IEP team will follow federal guidelines in making these determinations.

If the Student's IEP team determines that the Student did not receive the voluntary homework packet and/or the above listed accommodations were not provided or offered, the team will determine the amount and nature of compensatory services, if any, the District will provide, or other remedial measures the District will take.

REPORTING REQUIREMENT A: Within 15 calendar days after the meeting, the District will provide OCR with a statement that it has complied with Agreement Item 3 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 regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, in making these determinations, and notify the District when it has completed this review.³

REPORTING REQUIREMENT B: After OCR has determined that the Section 504 procedural requirements were met in making the determination under Agreement Item 3, the District will take steps to implement the compensatory services and remedial measures, if any, agreed upon by the IEP team.

² In consideration of risks associated with COVID-19, the Team may conduct this meeting virtually to protect all team members' safety and health.

³ 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.

Within 90 calendar 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 must 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.

- 4. Individual Relief** – By July 31, 2020, the School will determine if the Student missed assignments while he was suspended that he has not yet had the opportunity to complete; and, if yes, whether those assignments impacted his grades during the 2019-2020 school year. The School will provide the Student with all assignments that he missed while he was suspended and that he has not yet had the opportunity to complete, and will specify which assignments, if any, impacted his grades. The School will inform the Student that he may, but is not required to, complete the assignments and that those assignments which impacted his grades during the 2019-2020 school year may be graded for full credit. The School will explain that the Student has 21 calendar days to complete the assignments and receive feedback, if he desires. If the Student wishes to receive feedback, the School will provide such feedback within 7 calendar days of receiving the completed assignments. If any of the completed assignments improve the Student's grades, the District will change the Student's grade records to reflect the improved grade(s).

REPORTING REQUIREMENT A: By August 15, 2020, the School will submit to OCR documentation that demonstrates: the Student was provided with all missed assignments and that those assignments which may have impacted his final grade(s) were identified as such; which assignments, if any, the Student completed and returned for feedback; and the feedback provided to the Student. If applicable, the District will also provide documentation that demonstrates the change(s) it made to the Student's grade records. The District will address OCR's concerns with the implementation of this term, if any, until OCR considers the concerns resolved.

- 5. Student Discipline History** – The District will review Student's discipline history and will remove any categorization of Student's behavior as "petty theft" or "petty thief" as designated in the District's electronic student management system during the 2019-2020 school year. The referrals from the 2019-2020 school year will be classified as "Other violations of school policies – other violations of school policies."

REPORTING REQUIREMENT A: By August 15, 2020, the School will provide OCR with confirmation that the designations in the School's student management system have been changed.

- 6. Staff Training** – The District will train all staff members at Vista Del Sur Accelerated Academy (School) regarding the prohibition of disability-based and racial harassment. The training will address:

- The School's obligations under Section 504, Title II, and Title VI to report, document, and investigate disability-based and racial harassment;
- How to identify disability-based and racial harassment;

- How to proactively discourage disability-based and racial harassment in educational environments;
- The importance of treating all students who engage in conduct that subjects them to discipline in the same manner, regardless of their race;
- The School's policies and practices regarding when a student can/cannot have a second lunch and who makes that decision;
- The School's policies and practices regarding when a student can/cannot eat in the classroom and who makes that decision;
- Under which circumstances the School will reassign a student to another classroom;
- The School's policies and practices regarding providing students who have been suspended with schoolwork;
- Expectations regarding communication with parents, including objective measures that the District will use to determine when a communication plan is appropriate; and
- The District's policy regarding prohibiting retaliation, including a description and examples of prohibited retaliation.

Reporting Requirement A: By August 15, 2020, the District will submit to OCR documentation for the training described in Term 6. The documentation will include copies of all training materials the District intends to use and the names and qualifications of the selected trainer(s), both of which are subject to OCR's review and approval. The District will promptly consider and respond to OCR's feedback until OCR approves the training materials and plan.

Reporting Requirement B: Within 30 calendar days of OCR's approval of the training material(s) and trainer(s), the District will provide OCR with documentation that demonstrates that the training has been completed. This documentation must include, minimally, the date(s) of the training, a list of all School staff, and a list of participants.

The District understands that OCR will close the monitoring of this Agreement when OCR determines that the District has fulfilled the terms of this Agreement.

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 contained herein. 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 the regulations implementing Section 504 of the Rehabilitation Act of 1973 at 34 C.F.R. Part 104, Title II of the Americans with Disabilities Act of 1990 at 28 C.F.R. Part 35, and Title VI, at 34 C.F.R. §100, which were at issue in this case.

The District further understands and acknowledges that OCR may initiate administrative enforcement of 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 a minimum of 60 calendar days to cure the alleged breach.

July 17, 2020

Dr. Jeff Sprout, Superintendent

Date