

RESOLUTION AGREEMENT

Alamogordo Public Schools OCR Case Number 08-20-1267

Alamogordo Public Schools (“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 an 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 fulfill the following reporting requirements.

TERM I: The District will develop and disseminate to all School staff written guidelines (“Guidelines”) for XXXX (“School”) security personnel involvement in situations involving misbehavior by students with disabilities who have a behavior intervention plans (BIP). The Guidelines will include, but will not necessarily be limited to:

- A. when, how, and by whom School security personnel will be provided with notice of all School students with disabilities who have BIPs and with copies of those students’ BIPs;
- B. a definition of a BIP;
- C. a statement that, generally, security personnel should not be involved in situations involving misbehavior by a student with a disability who has a BIP, unless the student is an imminent or present threat to school safety and order;
- D. a statement that security personnel are required to comply with students’ BIPs;
- E. a statement that a failure to follow a student’s BIP may be a violation of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and Title II of the Americans with Disabilities Act of 1990 (“Title II”);
- F. possible consequences for security personnel who violate the Guidelines; and
- G. the name(s), title(s)/position(s), phone number(s), and email address(es) of qualified School staff members who are available to address questions and concerns related to the Guidelines.

By the end of the first week of the 2020-2021 school year (SY) (*i.e.*, August 14, 2020), the District will disseminate the Guidelines to all School staff.

Reporting Requirement A – Within 60 calendar days of this Agreement being signed, the District will submit to OCR a draft of the Guidelines. The District will promptly and fully address OCR’s feedback, if any, until the District receives notification from OCR that the Guidelines are approved and no further reporting is required for Reporting Requirement A.

Reporting Requirement B – By August 28, 2020, the District will submit to OCR:

- i. documentation showing that the Guidelines were disseminated to all School staff as required by Term I;¹ and
- ii. written assurances that the Guidelines will, henceforth, be disseminated to all School staff on at least an annual basis.

The District will promptly and fully address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement B and Term I.

TERM II: By the end of the first week of the 2020-2021 SY, the District will train, using one or more qualified trainers, all School security personnel about:

- A. each provision in the Guidelines approved pursuant to Term I;
- B. examples of how disabilities may impact students' behavior;
- C. the purposes and content of functional behavioral assessments (FBAs) and BIPs; and
- D. strategies to de-escalate students.

Reporting Requirement A – By August 28, 2020, the District will submit to OCR:

- i. the name(s), position(s)/title(s), and qualifications of the trainer(s);
- ii. a copy of the training agenda and materials;
- iii. the date, time, and location of the training;
- iv. the names and titles/positions of all staff who attended the training; and
- v. if applicable, the name(s) and title(s)/position(s) of all staff who did not attend the training, an explanation for each person's absence, and a plan for training each person.

The District will promptly and fully address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement A and Term II.

TERM III: By August 7, 2020, the District will disseminate:

- A. the Student's individualized education program (IEP) and BIP to all teachers and educational assistants (or similar positions) who will be working with the Student during fall 2020; and
- B. the Student's BIP to all School security personnel.

Reporting Requirement A – By August 28, 2020, the District will submit to OCR documentation showing that the Student's IEP and BIP were disseminated as required by Term III. The District will promptly and fully address OCR's concerns, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement A and 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

¹ e.g., a copy of an email that shows all recipients and attachments; or a list of all School staff with signatures (and dates) attesting to receipt of the Guidelines.

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 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 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 the District:

/s/ _____
Jerrett Perry, Superintendent

4/30/20 _____
Date