

VOLUNTARY RESOLUTION AGREEMENT

Sunnyside Unified School District

OCR Case Number 08-21-1028

The United States Department of Education (Department), Office for Civil Rights (OCR), initiated investigation of the above-referenced complaint brought by the Complainant against Sunnyside Unified School District (District), pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department, and Title II of the Americans with Disabilities Act of 1990 (ADA) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

During OCR's investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and the ADA. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement.

Accordingly, to resolve the issues of this investigation, the District voluntarily agrees to take the following actions. This agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District.

Change of Placement (COP) Procedures

- 1. Within 10 calendar days of signing this Agreement,** the District will publish and disseminate the COP procedures that were produced to OCR as Exhibit 17 (SUSD 32-33) to District School Psychologists, Program Specialists, Special Education Department Chairs, School Principals and Assistant Principals.

REPORTING REQUIREMENT: Within 15 calendar days of signing this Agreement, the District shall submit to OCR a copy of the communication and COP procedures that was disseminated, a list of the names and titles of the persons who received the communication and procedures, an explanation of the manner in which the procedures were distributed, and the date they were disseminated.

- 2. No later than June 30, 2021,** the District will provide for OCR's review and approval training materials for all District School Psychologists regarding the COP procedures at SUSD 32-33. The training will address, at a minimum, how and why the new COP procedures differ from the District's former COP policies and procedures, the role of program specialists in the new COP procedures, the purpose of any consultation with program specialists and/or the Director of Exceptional Education prior to IEP team meetings, the role of parents in the COP process, the importance of individualized decision making, the full continuum of placements available for all disability classifications, the distinction

between lawful preparation and predetermination with examples of each, and the types of documentation needed to support a change of placement.

- 3. Between July 28 and August 3, 2021 (if OCR has approved the draft training materials by then) or within 30 calendar days of OCR's approval of the draft training materials,** the District will provide training on the District's COP procedures to all District School Psychologists.

REPORTING REQUIREMENT: Within 10 days of providing the training to all District School Psychologists, the District will provide OCR with 1) the name and qualifications of the person who provided the training; (2) the names and job titles of persons attending the training; (3) the date and the agenda for the training; and (4) a copy of any materials distributed in connection with the training.

Inclusion Initiative for Students with Mild Intellectual Disabilities (MIID)

- 4. The District will schedule IEP meetings** for all students enrolled in the District for the 2021-2022 school year who were moved out of self-contained classrooms for MIID students into the general education environment for the 2020-21 school year pursuant to the District's inclusion initiative. The IEP meetings will be scheduled to occur no later than October 7, 2021. The students' IEP teams must consider and discuss, at a minimum, the students' progress in the general education environment, the extent to which the current placement is meeting the students' individualized educational needs, whether any additional supplementary aids or services can be provided in the general education environment to meet the students' needs, and whether the IEP team needs more recent evaluation data (in advance of the student's triennial evaluation) to make informed decisions regarding the students' educational program and placement.

The District shall be deemed in compliance with this Agreement if: (a) A parent is provided notice of his/her child's IEP meeting and the IEP meeting is scheduled at a mutually agreed date and time but the parent fails to attend the IEP meeting; or (b) A parent confirms in writing that he/she will not attend the IEP meeting but consents to the IEP team meeting without the parent; or (c) A parent refuses to attend the IEP meeting. OCR understands and agrees that because OCR is directing the District to hold an IEP meetings without parents in the foregoing situations, OCR shall not deem the District in non-compliance with this Agreement or the laws OCR enforces if the District holds meetings without parent participation. Should the District hold IEP meetings without parents pursuant to this Agreement, the District shall provide the parents with any updated IEPs or IEP Addendum and a Prior Written Notice relating to the IEP meeting held.

REPORTING REQUIREMENT a: No later than November 15, 2021, the District will provide OCR with the IEPs and Prior Written Notices (PWN) for all students with MIID for whom IEP meetings were held pursuant to Term 4.

REPORTING REQUIREMENT b: No later than November 15, 2021, the District will provide OCR with a chart summarizing any changes of placement

(COPs) and/or changes in least restrictive environment (LRE) made as a result of the IEP meetings held pursuant to Term 4.

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 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 the regulations implementing Section 504 and the ADA, which were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. pt. 104, and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-65, and its implementing regulation at 28 C.F.R. pt 35, which were at issue in 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 a minimum of sixty (60) calendar days to cure the alleged breach.

For the Sunnyside Unified School District:

_____/s/_____
XXX
Superintendent

____4/22/2021_____
Date