



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII

ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

RESOLUTION AGREEMENT
Deer Valley Unified School District
OCR Case Number: 08211114

The Deer Valley Unified School District (DVUSD or Recipient) voluntarily enters this Resolution Agreement (Agreement) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), Denver Office. The Recipient voluntarily agrees 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. § 794, and its implementing regulations at 34 C.F.R. Part 104; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, and to resolve the Complainant's allegations. This Agreement does not constitute an admission by DVUSD that it violated any law, that it discriminated against the Complainant, or that DVUSD engaged in any wrongdoing. Prior to the completion of OCR's investigation, DVUSD agreed to resolve the complaint. Accordingly, DVUSD voluntarily agrees to take the following actions:

ACTION ITEMS & REPORTING REQUIREMENTS:

Action Item 1

No later than September 17, 2021, the Recipient will convene a meeting¹ of a group of persons knowledgeable about Student A, as defined by Section 504, to review information from a variety of sources (which will be documented and carefully considered) to determine the following:

- Student A's placement for the 2021-2022 school year;
- What, if any, accommodations Student A will have in their Section 504 plan;
- What, if any, compensatory and/or remedial services Student A is entitled to as a result of any failure on the part of the Recipient to provide appropriate regular and/or special education or related services to Student A during the 2020-2021 school year;
- If the group determines that Student A requires compensatory and/or remedial services, the group will develop a plan for providing such services with a completion date not to extend beyond **December 31, 2021**.

The Recipient will provide Student A's parent(s)/guardian(s) notice of the procedural safeguards including the right to challenge the determination regarding Student A's identification, evaluation or educational placement through an impartial due process hearing.

If the Recipient had previously convened a meeting as required in Action Item 1, the documentation from that meeting may be submitted to satisfy the Reporting Requirements for Action Item 1 below.

¹ This meeting can be held either virtually or in-person at the Recipient's discretion.

Reporting Requirements for Action Item 1

- A. **No later than September 30, 2021** the Recipient will submit to OCR documentation evidencing the provision of Action Item 1, including:
- i. A copy of the written notification sent to the Complainant concerning the date and time of the meeting, and proof of transmission to the Complainant (e.g., email chain, certified mail and tracking receipt, etc.);
 - ii. A list of all participants in the meeting (including names, titles, role in the meeting);
 - iii. Records of all information considered during the meeting;
 - iv. Minutes or notes from the meeting, if any;
 - v. An explanation of the decisions made during the meeting; and
 - vi. A description of and schedule for any compensatory and/or remedial services (if any) determined appropriate for Student A . If the group determines that compensatory and/or remedial services are not required, the Recipient will indicate that in its report, including a description of why the group reached that decision.
- B. If compensatory and/or remedial services are deemed necessary, by **January 31, 2022**, the Recipient will provide documentation to OCR demonstrating the provision of the above noted services, including:
- i. The date(s), time(s), and location(s) that compensatory and/or remedial services were provided;
 - ii. A description of what compensatory and/or remedial services were provided and how they were provided; and
 - iii. The name(s), title(s), and contact information (telephone numbers and email addresses) of the service provider(s).

Action Item 2

No later than September 17, 2021, the Recipient will convene a meeting² of a group of persons knowledgeable about Student B, as defined by Section 504, to review information from a variety of sources (which will be documented and carefully considered) to determine the following:

- Determine Student B’s initial eligibility and need under Section 504 and if determined eligible and in need of a Section 504 Plan, then discuss;
- Student B’s placement for the 2021-2022 school year;
- If Student B is to have a Section 504 plan, what, if any, accommodations Student B will have in their Section 504 plan.
- What, if any, compensatory and/or remedial services Student B is entitled to as a result of any failure on the part of the Recipient to timely evaluate Student B during the 2020-2021 school year;

² This meeting can be held either virtually or in-person at the Recipient’s discretion.

- If the group determines that Student B requires compensatory and/or remedial services, the group will develop a plan for providing such services with a completion date not to extend beyond **December 31, 2021**.

The Recipient will provide Student B's parent(s)/guardian(s) notice of the procedural safeguards including the right to challenge the determination regarding Student B's identification, evaluation or educational placement through an impartial due process hearing.

If the Recipient had previously convened a meeting as required in Action Item 2, the documentation from that meeting may be submitted to satisfy the Reporting Requirements for Action Item 2 below.

Reporting Requirements for Action Item 2

- A. **No later than September 30, 2021**, the Recipient will submit to OCR documentation evincing the provision of Action Item 2, including:
- i. A copy of the written notification sent to the Complainant concerning the date and time of the meeting, and proof of transmission to the Complainant (e.g., email chain, certified mail and tracking receipt, etc.);
 - ii. A list of all participants in the meeting (including names, titles, role in the meeting);
 - iii. Records of all information considered during the meeting;
 - iv. Minutes or notes from the meeting, if any;
 - v. An explanation of the decisions made during the meeting; and
 - vi. A description of and schedule for any compensatory and/or remedial services (if any) determined appropriate for Student B. If the group determines that compensatory and/or remedial services are not required, the Recipient will indicate that in its report, including a description of why the group reached that decision.
- B. If compensatory and/or remedial services are deemed necessary, by **January 31, 2022**, the Recipient will provide documentation to OCR demonstrating the provision of the above noted services, including:
- i. The date(s), time(s), and location(s) that compensatory and/or remedial services were provided;
 - ii. A description of what compensatory and/or remedial services were provided and how they were provided; and
 - iii. The name(s), title(s), and contact information (telephone numbers and email addresses) of the service provider(s).

Action Item 3

- A. **No later than September 30, 2021**, the Recipient will conduct training regarding its obligation under Section 504 and Title II (Training). The Training will include, but not be limited to, the following obligations under Section 504 and Title II:
- Provide a free appropriate public education (FAPE) to all qualified students with disabilities attending its schools;
 - The prohibition of different treatment of individuals based on disability;
 - The requirement to conduct a proper evaluation of students prior to any significant change in placement;
 - To fully implement any individualized education program or Section 504 plan that has been developed for a qualified student with a disability;
 - To provide parents/guardians with notice of the District’s procedural safeguards; and
 - The prohibition against retaliation, including the following:
 1. Intimidating, threatening, coercing, or discriminating against any individual because he/she made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under the regulation; or
 2. Taking adverse action against an individual either in response to the exercise of a protected activity or to deter or prevent protected activity in the future.
- B. **No later than September 30, 2021**, DVUSD will provide Training to relevant personnel on its duty to only report students and parents/guardians to the Arizona Department of Child Safety (DCS) for reasons provided under the law.³

The Training(s) above must be provided to all relevant personnel at West Wing Elementary School (School), including, but not limited to, as applicable, principals, assistant principals, and relevant administrators, Section 504/Title II coordinators, teachers, teacher’s aides, and counselors. The Training(s) will be conducted by an individual or individuals knowledgeable about laws and issues pertaining to disability discrimination, including Section 504 and Title II.

Reporting Requirements for Action Item 3

- A. **Prior to the trainings required by Action Item 3 being held, and no later than July 31, 2021**, the Recipient will provide OCR, for review and approval, the following:
- i. A copy of the Training materials the Recipient will use (e.g., Power Point slides, discussion materials);
 - ii. The name, title, credentials, and contact information for the person(s) who created the Training materials and who will provide the Training.
- B. **No later than October 31, 2021**, the Recipient will provide OCR with detailed information regarding the training conducted pursuant to Action Item 3, including the following:
- i. A list of all personnel who completed the Training(s) (e.g., sign-in sheets) (List);

³ It is not OCR’s intent to discourage DVUSD personnel from reporting consistent with the law.

- ii. Assurance that the List constitutes the entirety of the personnel required to attend the Training(s);
- iii. The date(s) of the Training(s);
- iv. A copy of the Training materials used; and
- v. The name, title, credentials, and contact information of the person(s) who provided the Training.

The Recipient understands that by signing the Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the Recipient understands that during the monitoring of the Agreement, if necessary, OCR may visit the recipient, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the recipient has fulfilled the terms of the Agreement.

Upon the Recipient's satisfaction of the commitments made under the Agreement, OCR will close the case.

The Recipient 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 Recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

EXECUTION:

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

Dr. Melissa McCusker
Director of Student Support Services
Deer Valley Unified School District

Date