

## **Resolution Agreement**

### **Artesia Public Schools OCR Case Number 08-21-1295**

Artesia Public Schools (District) enters into this Agreement to resolve an allegation in the above-referenced case. 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.

### **Grievance Procedures**

1. The District agrees to create, adopt, and publish a Grievance Procedure that provides for the prompt and equitable resolution of discrimination complaints based on disability. The procedure will include, at a minimum, the following components:
  - A. Instructions on how to initiate a complaint under the procedure.
  - B. A description of the steps the District will take to conduct a prompt, adequate, reliable, and impartial investigation of complaint allegations; and any interim measures that the District may take.
  - C. Designation of reasonably prompt timeframes for the grievance process.
  - D. An opportunity for parties to present witnesses and evidence.
  - E. A statement that confidentiality may only be maintained to the extent it does not compromise the integrity of the adequate and impartial investigation.
  - F. Clarification of the roles that relevant District staff will have during the investigation.
  - G. A statement that the District will ensure that complainants are aware of their rights and available resources.
  - H. A statement that the District will provide written notice to the parties of the investigation's outcome.
  - I. Notice of the opportunity for parties to appeal the findings, a description of the appeal process, and an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker.
  - J. A statement that Section 504 and Title II prohibit retaliation and intimidation against any individual who files a complaint under those laws or participates in a complaint investigation or process; and, that the District will investigate all allegations of retaliation and intimidation and take appropriate action against those found to have retaliated.
  - K. The names(s), title, office address, telephone number, and email address of the District's Section 504/Title II Coordinator(s)/Compliance Officer(s).
  
2. The District will disseminate the approved Grievance Procedure from Term 1 by:
  - A. publishing the procedures in the District's policy manual;
  - B. posting the applicable procedures on the District's and XXXX websites;

- C. emailing the procedures to the administrators of each District school and all staff at XXXX; and
- D. to the extent that the District and/or XXXX have printed student and parent handbooks, the District will include the applicable procedures in the 2022-2023 printed handbooks.

**Reporting Requirement (A):** Within 60 calendar days of this Agreement being signed, the District and School will submit to OCR a draft of the grievance procedure required by Term 1. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the procedure.

**Reporting Requirement (B):** Within 30 calendar days of the District and School receiving notice from OCR that no further reporting was required for Reporting Requirement (A), the District will (i) disseminate the approved Grievance Procedure as required by Term 2; and (ii) the District will submit to OCR documentation demonstrating that the approved procedures were disseminated as required by Term 2 (*e.g.*, screenshots or print outs of the School's website; emails showing recipients and attachments; copies of handbooks; etc.). The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement B or Terms 1 and 2.

#### **Section 504 Compliance Coordinator**

- 3. Within 30 calendar days of signing this Agreement, the District's will designate one or more individuals to coordinate its efforts to comply with and carry out its responsibilities under Section 504/Title II and their implementing regulations. The District will publish the name(s), title(s), office address(es), telephone number(s), and email address(es) of this individual or individuals on the District's and XXXX website, student and parent handbooks, staff handbooks, and all relevant procedures.

**Reporting Requirement (A):** Within 30 calendar days of signing this Agreement, the District will provide OCR with the name(s) and qualifications of the District's designated Section 504 Coordinator(s) and a description of the specific responsibilities of the Coordinator(s). The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement (A).

**Reporting Requirement (B):** Within 60 days of signing this Agreement, the District will provide OCR with documentation showing that the title, office address, telephone number, and email address of the Coordinator(s) was published on the District's and XXXX websites, online student and parent handbooks, online staff handbooks, and all relevant policies and procedures. The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement B or Term 3.

#### **Staff Training**

- 4. The District agrees to provide training to all staff at XXXX, including but not necessarily limited to the XXXX Principal, Assistant Principal, Section 504 Coordinator(s), case manager(s), classroom teachers, and special education teachers on the following topics:

- A. Section 504 and the implementation of Section 504 plans in accordance with the relevant Section 504 and Title II regulations.
- B. The approved grievance procedures described in Terms 1.
- C. The handling of disability discrimination complaints in accordance with the grievance procedure described in Term 1 and Section 504/Title II.
- D. Who (including name, title or position, and email address) staff may contact with questions or concerns about the contents of the training.

**Reporting Requirement (A):** Within 60 calendar days of receiving notice from OCR that no further reporting is required for Terms 1 through 3, the District and School will submit to OCR: (i) draft training materials; (ii) the name(s), title(s) or position(s), and qualifications of one or more qualified individuals to provide the training(s); (iii) a list of proposed individuals to be trained, including each person's name and title or position; and (iv) a roster, with name and title, of every staff member at XXXX. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the training materials, trainer(s), and trainee list.

**Reporting Requirement (B):** Within 30 calendar days of receiving OCR's final approval of the training materials, trainer(s), and trainee list, the training will be conducted and the District will submit to OCR: (i) the date(s), time(s), and location(s) of the training session(s); (ii) confirmation that the approved training materials were used; (iii) confirmation that the approved trainer(s) was used; (iv) the names and titles or positions of staff who attended the training(s); and (v) the names and titles or positions of staff who did not attend the training, an explanation for each person's absence, and a plan to train each person who was not able to attend. The District will promptly and fully address OCR's feedback, if any, until the District and School receive notice from OCR that no further reporting is required for Reporting Requirement B.

### **Individual Remedy**

5. The District will invite the Complainant and Student to a Section 504 Plan meeting for the purpose of determining the type and amount of compensatory services or other remedial measures (at no cost to the Student or Complainant) owed to the Student as a result of any failure to implement the Student's Section 504 Plans during the 2020-2021 school year. In the meeting invitation the District will explain the purpose of the meeting as detailed above and explain that the Student and Complainant are permitted to invite others to the meeting.

**Reporting Requirement (A):** Within 5 calendar days of signing the agreement, the District will submit to OCR a copy of the meeting invitation for OCR's review and approval. The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement (A).

**Reporting Requirement (B):** Within 5 calendar days of receiving OCR's final approval of the meeting invitation the District will submit to OCR a copy of the invitation and all other related communications sent to the Complainant. The District will promptly and fully address OCR's feedback, if any, until the District receives notification from OCR that no further reporting is required for Reporting Requirement (B) and Term 5.

6. Within 30 calendar days of signing the Agreement, the District will convene a Section 504 Plan meeting for the purpose of determining the type and amount of compensatory services or other

remedial measures (at no cost to the Student or Complainant) owed to the Student as a result of any failure to implement the Student's Section 504 Plans. In convening the meeting, the District will ensure the following:

- A. The meeting occurs at a date, time, and location that are mutually agreed upon by the parties.
- B. The meeting is consistent with the procedural requirements of Section 504 and Title II.
- C. The Team carefully considers all information provided by all parties present at the meeting.
- D. Within 10 calendar days after the meeting, the District will:
  - i. Notify the Complainant and Student, in writing, of the decisions made at the meeting.
  - ii. Provide the Student with a copy of the Section 504 Plan.
  - iii. Provide the Complainant and Student with a copy of applicable procedural safeguards.

**Reporting Requirement:** Within 15 calendar days of the Section 504 meeting, the District will submit to OCR:

- 1) Copies of all communications with the Complainant related to the meeting, including documentation showing the following:<sup>1</sup>
  - a) The Complainant was notified of the team's decisions made at the meeting.
  - b) The Complainant received a copy of the Plan.
  - c) The Complainant received a copy of the applicable procedural safeguards.
- 2) A list of all individuals who attended the meeting, including each individual's name and title or position.
- 3) Notes or minutes from the meeting reflecting:
  - a) The information that the Section 504 team considered in reaching its decisions.
  - b) That the Section 504 team carefully considered input from persons knowledgeable about the Student.

The District and School will promptly and fully address OCR's feedback, if any, until the District and School receive notification from OCR that no further reporting is required for Term 6.<sup>2</sup>

- 7. Once the Section 504 team determines the type and amount of compensatory services or other remedial measures owed to the Student, the District will create a written plan ("Plan") to provide the compensatory services or other remedial measures to the Student. The Plan will include the following:
  - E. The type(s) of compensatory services or other remedial measures to be provided.
  - F. The amount of compensatory services or other remedial measures to be provided.
  - G. The name(s) and title(s) or position(s) of the person(s) who will be responsible for providing the compensatory services or other remedial measures.
  - H. The location where the compensatory services or other remedial measures will be provided.
  - I. A schedule for the provision of the compensatory services or other remedial measures.

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<sup>1</sup> For purposes of this Agreement, "communications" include, but are not limited to, all emails, letters, text messages, electronic messages, and forms.

<sup>2</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a Section 504 team that is properly constituted and that takes appropriate actions in light of the requirements of due process.

- J. The name and title or position of the person who will ultimately be responsible for implementation of the Plan.

**Reporting Requirement:** Within 60 calendar days of receiving notification from OCR that no further reporting is required for Term 6, the District will submit to OCR documentation showing that the District has implemented or is in the process of implementing the compensatory services or remedial measures Plan. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District and School that no further reporting is required for Term 7.<sup>3</sup>

If the Section 504 team determines that no compensatory services or other remedial measures will be provided, the District will submit to OCR a written explanation of the reasons for that determination, along with any supporting documentation.<sup>4</sup>

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 100.9-10), or judicial proceedings to enforce this 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, the District 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 School, 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 regulation, at 34 C.F.R. Part 104, and Title II, and its implementing regulation, at 28 C.F.R. Part 35. Upon completion of the obligations under this Agreement, OCR will close the case.

This agreement will become effective upon the signature of the representative for the District.

/s/

11/16/2021

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Superintendent, Artesia Public Schools

\_\_\_\_\_  
Date

<sup>3</sup> This case will remain in monitoring until all compensatory services or other remedial measures have been provided.

<sup>4</sup> Except in extraordinary circumstances, OCR does not typically substitute its judgment for the decisions made by a Section 504 team that is properly constituted and that takes appropriate actions in light of the requirements of due process.