

RESOLUTION AGREEMENT
Albuquerque Public Schools
Case Number 08-21-1417

In order to resolve the open allegations in Case Number 08-21-1417, filed against Albuquerque Public Schools (District) with the Office for Civil Rights (OCR) of the U.S. Department of Education (Department), pursuant to 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, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. Part 35, the District agrees to implement the following Resolution Agreement (Agreement).

This Agreement shall not in any way be construed as an admission by the District that it has acted wrongfully or violated any laws or that OCR made any finding of wrongdoing or legal violation, and the District specifically disclaims any liability to or wrongful acts against the Student or any other person.

Term 1: Training

1. After receiving OCR's final approval of the training materials, the District will provide training to the Administrators and special education staff, including the Intensive Global Support 2 (ISG2) staff, of XXXX School (School) and any other relevant School employees. The District will provide the training before the start of the 2022-23 School Year. The training will include, at a minimum:
 - a. A review of the responsibility to comply with Section 504 and Title II;
 - b. A discussion of the responsibility to provide a free appropriate public education (FAPE), including, but not necessarily limited to, the following:
 1. The necessity of ensuring that relevant staff members (teachers, paraprofessionals, etc.) are informed about the contents of IEPs and 504 Plans and understand what is required and know how to implement the accommodations;
 2. The responsibility to ensure implementation of all accommodations set forth in Individualized Education Programs (IEPs) and Section 504 Plans;
 3. That failure to fully implement all accommodations set forth in IEPs and Section 504 Plans could result in a denial of FAPE;
 4. The definition of a shortened school day; and
 5. That shortening a student's school day is not permissible and could result in the denial of FAPE in the absence of a provision in an IEP or Section 504 Plan specifying that a student requires a shortened school day.

REPORTING REQUIREMENTS:

By May 2, 2022, the District will submit training materials for OCR's approval and identify one or more persons knowledgeable about Section 504 and Title II.

Within 30 days of completing the training, the District will provide to OCR documentation to demonstrate:

- a. The date, time, and location of the training;
- b. The name, title/position, employer and qualifications of the trainer;
- c. Confirmation that the approved trainer(s) delivered the training;
- d. Final agenda and materials from the training;
- e. The names and titles of all staff who attended the training; and
- f. The names and titles of all staff who were required to attend the training, but did not attend, and an explanation of when and how these individuals will receive the required training.

Term 2: Individual Remedy for the Student

2. Within forty-five (45) calendar days of this Agreement being signed, the District will contact the Complainant and determine whether the Complainant is interested in convening an IEP Team meeting to consider compensatory services for the Student. If, within thirty (30) days of contact by the District, the Complainant confirms interest convening an IEP Team meeting to consider compensatory services, the District will convene an IEP Team meeting to determine what, if any, compensatory services are necessary.
 - a. If the Complainant is interested in convening an IEP Team meeting for the purpose of determining whether any compensatory services are necessary, at least fifteen (15) calendar days before a meeting, the District will invite the Complainant, in writing, to:
 1. Attend the meeting;
 2. Invite other individuals who are knowledgeable about the Student to attend the meeting; and
 3. Share information and their perspectives at the meeting.
 4. In the invitation, the District will, at a minimum, explain the purpose of the meeting and include an agenda.
 - b. The District will document its invitation to the Complainant and any responses from the Complainant.
 - c. If the Complainant accepts the District's offer to convene a meeting, then the District will:
 1. Ensure that the meeting occurs at a date, time, and location that are mutually agreed upon by the District and the Complainant.
 2. Ensure that any decisions made at the meeting reflect the judgment of the IEP Team.
 3. Within ten (10) calendar days after the meeting, the District will:
 - i. Notify the Complainant, in writing, of the decisions made at the meeting;
 - ii. Provide the Complainant with notice of her and the Student's rights regarding applicable procedural safeguards; and
 - iii. If applicable, provide the Complainant with a copy of the plan to provide compensatory services to the Student.

REPORTING REQUIREMENTS:

If the Complainant declines the offer to convene an IEP Team meeting regarding compensatory services, or fails to respond within thirty (30) days of the District's offer to convene an IEP Team meeting, the District will send OCR a copy of all communications between District staff and the Complainant related to the IEP Team meeting invitation, including documentation demonstrating that the Complainant was invited to participate in the IEP Team meeting and had the opportunity to invite others to attend the meeting and share information and their perspectives during the meeting.

If the Complainant accepts the offer to convene an IEP Team meeting regarding compensatory services, within ten (10) business days of the conclusion of the IEP Team meeting, the District will send OCR documentation of the following:

- a. A copy of all communications between District staff and the Complainant related to the IEP Team meeting, including documentation demonstrating that the Complainant:
 1. was invited to participate in the meeting and had the opportunity to invite others to attend the meeting and share information and their perspectives during the meeting.
 2. received a copy of the District's applicable procedural safeguards;
 3. was notified of the Team's decisions made at the meeting; and
 4. was provided a copy of the plan to provide compensatory services, if applicable.
- b. A copy of the IEP Team meeting agenda and list of participants, with each participant's name and title/position.
- c. A copy of minutes or notes from the IEP Team meeting.
- d. The name, title/position, employer and qualifications of the facilitator, if one is used.
- e. Copies of all documentation considered at the meeting, including all documentation provided to or by the Complainant.
- f. Documentation of the IEP Team's decisions regarding the type and number of hours of compensatory services that the IEP Team determined are appropriate for the Student, if any, and the basis for those decisions.
- g. If applicable, documentation that all compensatory services have been offered and/or provided.

Term 3: Potential Individual Remedy for Other School Students Who Did Not Receive Transportation Services

3. Within forty-five (45) calendar days of this Agreement being signed, the District will send a letter to School students whose IEPs called for transportation services and who were identified with a transportation status of "Waiting" or "Unknown" in September, 2021 or March, 2022. The letter will advise that the family may contact the School to request an IEP Team meeting to consider compensatory services if the family feels that the student suffered educational losses due to lack of transportation. The letter should also include OCR's contact information.

REPORTING REQUIREMENTS:

Within forty-five (45) calendar days of this Agreement being signed, the District will provide a copy of the letters sent to the identified students' families.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the District understands that during the monitoring of this Agreement, 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 Title II at 34 C.F.R. § 104.35; and 28 C.F.R. § 35.130(a). Upon completion of the obligations under this Agreement, OCR shall close this case.

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. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

For Albuquerque Public Schools:

_____/s/_____
Scott Elder
Superintendent

3/9/22
Date