

RESOLUTION AGREEMENT
Montezuma-Cortez School District RE-1
OCR Case 08-22-1137

Montezuma-Cortez School District RE-1 (“District”) enters into this Agreement to resolve allegations 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 the District 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, which prohibit discrimination based on disability by recipients of federal financial assistance; 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 based on disability by public entities.

Prior to OCR issuing a final determination pursuant to Section 303 of OCR’s *Case Processing Manual* (CPM), the District agreed to resolve the issues in this case pursuant to Section 302 of the CPM. Accordingly, the District agrees to implement the following terms and reporting requirements.

TERM I: TEAM MEETING AND POSSIBLE COMPENSATORY SERVICES OR OTHER REMEDIAL MEASURES

Within 30 calendar days of this Agreement being signed, the District will convene a meeting, which will consist of a group of knowledgeable people (“Team”), including the Student’s mother (“Mother”). The Team will discuss, at a minimum, whether the Student is owed compensatory services or other remedial measures (collectively, “Remedies”), at no cost to the Student, as a result of any failure to implement the Student’s Section 504 plan. If the Team decides that the Student is owed Remedies, the Team will also create a written plan (“Plan”) to provide Remedies to the Student.¹

At least 15 calendar days prior to the meeting, the District will invite the Mother, in writing, to attend the meeting.² In the invitation, the District will, at a minimum:

- a. explain the purposes of the meeting;
- b. include an agenda;
- c. notify the Mother that she may invite other individuals who are knowledgeable about the Student to attend the meeting; and
- d. notify the Mother that she may share information and her perspective during the meeting.

The District will document its invitation to the Complainant, as well as any response(s) from the Complainant.

¹ Except in extraordinary circumstances, OCR does not substitute its judgment for the decisions made by the team that is properly constituted and that takes appropriate actions in light of the facts known to it and the requirements of due process.

² All communications from the District to the Mother will include the Student’s attorney, so long as the attorney is representing the Student.

The District will ensure that:

- a. the meeting occurs at a date, time, and location that are mutually agreed upon by the District and Mother;
- b. the Team and meeting are consistent with the procedural requirements of Section 504;³
- c. the Team carefully considers all relevant information, including information provided by the Complainant and her invitees, if any; and
- d. any decisions made at the meeting reflect the judgment of the Team, not the judgment of a single individual.

The Plan, if one is created, will specify the:

- a. type(s) of Remedies to be provided;
- b. amount(s) of Remedies to be provided;
- c. name(s) and title(s)/position(s) of the individual(s) who will be responsible for providing the Remedies;
- d. location where the Remedies will be provided;
- e. schedule for the provision of the Remedies; and
- f. name and title/position of the person who will ultimately be responsible for the provision of the Remedies, as planned.

Within 10 calendar days after the meeting, the District will:

- a. notify the Complainant, in writing, of the decisions made at the meeting;
- b. provide the Complainant with a copy of the Plan, if one is created; and
- c. provide the Complainant with a copy of the District's applicable procedural safeguards.

The District will implement the Plan, if one is created, with fidelity.

Reporting Requirement A: Within 20 calendar days of the required Team meeting, the District will submit to OCR:

- i. a copy of all communications⁴ between District staff⁵ and the Mother related to the meeting, including documentation demonstrating that the Mother:
 - a. was invited to participate in the meeting;
 - b. had the opportunity to invite others to attend the meeting;
 - c. had the opportunity to share information and her perspective during the meeting;
 - d. received a copy of the District's applicable procedural safeguards;
 - e. was notified of the Team's decisions made at the meeting; and
 - f. was notified of the Plan (if applicable);
- ii. a list of all individuals who attended the meeting, including each individual's name and title/position; and
- iii. a copy of minutes or notes from the meeting reflecting:

³ *i.e.*, 34 C.F.R. §§ 104.35-36.

⁴ For purposes of this Agreement, "communications" include, but are not limited to, all emails, letters, text messages, electronic messages, telephone call logs, and forms.

⁵ For purposes of this Agreement, "District staff" includes District-level staff and school-based staff.

- a. the information that the Team considered in reaching its decision; and
- b. that the Team carefully considered input from persons knowledgeable about the Student.

If the Team determines that no Remedies will be provided to the Student, the District will also submit to OCR:

- a. a written explanation of the reasons for that determination; and
- b. any supporting documentation.

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 Term I – Reporting Requirement A.

Reporting Requirement B (Conditional): If a Plan is created, the District will submit to OCR, within 90 calendar days of receiving notification from OCR that no further reporting is required for Term I – Reporting Requirement A, documentation demonstrating that the District has provided or is in the process of providing the Remedies detailed in the Plan. The District will promptly and fully address OCR's feedback, if any, until OCR notifies the District that no further reporting is required for Term I – Reporting Requirement B or Term I.⁶

TERM II – DESIGNATION OF RESPONSIBLE EMPLOYEE AND NOTICE

The District will ensure that it has:

- a. at least one qualified employee designated to coordinate the District's compliance with Section 504 ("Section 504 Coordinator");⁷
- b. taken appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, of the identification of the Section 504 Coordinator;⁸ and
- c. a written job or position description for the Section 504 Coordinator.

The appropriate initial and continuing steps will include, at a minimum, publishing the Section 504 Coordinator's name, title, telephone number, and email address:

- a. in all student-parent handbooks (*i.e.*, school-based district-wide student-parent handbook) beginning with the 2022-2023 school year;
- b. on each school's website;
- c. on the District's "Grievance Procedure" webpage;⁹
- d. on the District's "Special Education" webpage;¹⁰ and
- e. on the District's applicable "Policy Manual" webpage(s).¹¹

⁶ This case will remain in monitoring until all Remedies (if any) have been provided.

⁷ See 34 C.F.R. § 104.7(a).

⁸ See 34 C.F.R. § 104.8(a).

⁹ <https://www.cortez.k12.co.us/our-district/grievance-process>

¹⁰ <https://www.cortez.k12.co.us/departments/special-education>

¹¹ <https://www.cortez.k12.co.us/our-district/board-of-education/policies>

The District will send the Section 504 Coordinator's name, title, telephone number, email address, and job or position description to all District staff.

Reporting Requirement A – Within 30 calendar days of this Agreement being signed, the District will submit to OCR:

- i. the name and title(s) or position(s) of the Section 504 Coordinator;
- ii. the qualifications of the Section 504 Coordinator;
- iii. the Section 504 Coordinator's job or position description;
- iv. evidence¹² demonstrating that the District has published the Section 504 Coordinator's name, title, telephone number, and email address as required by Term II, subsections (b)-(e); and
- v. evidence demonstrating that the Section 504 Coordinator's name, title, telephone number, email address, and job or position description were disseminated to all District staff as required by Term II.¹³

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

TERM III – STAFF TRAINING

The District will ensure that all relevant staff at Montezuma-Cortez High School ("School") are trained about:

- a. the right of students with disabilities to a free appropriate public education (FAPE);
- b. their duty to fully implement students' Section 504 plans;
- c. when and how they will be notified of which students have Section 504 plans;
- d. how they will be able to access students' Section 504 plans; and
- e. who, at the School and/or in the District, is qualified to respond to Section 504-related questions and concerns.

Relevant School staff include, at a minimum:

- a. all administrators (*e.g.*, principals, assistant principals, and deans);
- b. teachers;
- c. counselors; and
- d. nurses.

Reporting Requirement A: Within 30 calendar days of this Agreement being signed, the District will submit to OCR for review and approval:

- i. draft training materials;
- ii. a proposed list of staff to be trained, including, for each individual listed, first and last name and title or position; and

¹² *e.g.*, hyperlinks and copies of handbooks

¹³ *e.g.*, a copy of an email showing the recipients

- iii. the name(s), title(s) or position(s), and qualifications of one or more proposed individuals to conduct the training.

The District will promptly and fully respond to OCR's concerns, if any, about the proposed training materials, trainees, and trainer(s) until OCR considers these concerns resolved and issues final approval of the training materials, trainees, and trainer(s), and notifies the District that no further reporting is required for Term III – Reporting Requirement A.

Reporting Requirement B: Within 30 school days of receiving OCR's final approval of the training materials, trainees, and trainer(s), the District will provide the training and submit to OCR:

- the date, time, and location of the training;
- confirmation that the approved trainer(s) delivered the training;
- the agenda and materials from the training;
- the names and titles or positions of all individuals who attended the training; and
- the name(s) and title(s) of all individuals who did not attend the training, an explanation for each person's absence, and a plan to train each person (if possible).

The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Term III – Reporting Requirement B or Term III.

UNDERSTANDINGS AND ACKNOWLEDGEMENTS

By signing this Agreement, the Recipients 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 Recipients written notice of the alleged breach and 60 calendar days to cure the alleged breach.
- The Recipients will provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement.
- 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 Recipients have fulfilled the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations.
- Upon completion of the obligations under this Agreement, OCR will close this case.

For the District:

/s/
Jim Parr, Executive Director of Academic Student Services

2/15/22
Date