

RESOLUTION AGREEMENT
Truth or Consequences School District
OCR Complaint No. 08-22-1315

In order to resolve OCR Case Number 08-22-1315, filed against Truth or Consequences School District (District) and opened for investigation by the U.S. Department of Education (Department), Office for Civil Rights (OCR), 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 will implement the following terms of this Resolution Agreement (Agreement).

During the course of OCR’s investigation, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. The Agreement requirements are aligned with the identified issue and consistent with Section 504’s and Title II’s regulatory requirements. The District’s decision to enter into this agreement is not an admission of liability or wrongdoing, nor shall it be construed as such.

Term 1: Revise Section 504 Accommodation Plan Form

The District will review and revise as necessary its Section 504 Accommodation Plan Form (Form) to ensure it is consistent with the requirements of 34 C.F.R. § 104. Specifically, the District will ensure that the revised Form does not indicate that it is necessary for a student’s impairment to impact their education level for the student to be eligible for special education or related aids and services under Section 504. The Form should reflect that a student who has a physical or mental impairment that significantly limits a major life activity is a qualified student with a disability. A student may have a disability and be eligible for Section 504 services even if his or her disability does not limit the major life activity of learning.¹

REPORTING REQUIREMENT A: By October 24, 2022, the District will submit its revised Form to OCR for OCR’s review and approval. The District will promptly and fully address OCR’s feedback, if any, until the District receives OCR’s final approval of the Form

REPORTING REQUIREMENT B: Within thirty (30) calendar days of receiving OCR’s approval of the Form, the District will ensure that the Form is published on the District’s webpage, and in all District publications (*e.g.*, parent, staff, and/or student handbooks), where the previous form resided. The District will provide OCR with the links to the webpages containing the revised Form, including links to any and all publications where related information appears.

REPORTING REQUIREMENT C: Within thirty (30) calendar days of receiving OCR’s approval of the Form, the District will provide OCR with documentation to show that the revised Form has been disseminated to all District administrators and employees who provide education

¹ OCR’s *Parent and Educator Resource Guide to Section 504*, available at <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>, may provide helpful guidance to the District as the District conducts its review.

or related services to students, including but not limited to, the District's Section 504 Coordinator(s), school-level administrators, teachers, support staff, and other individuals who may be involved in the Section 504 evaluation process.

Term 2: Section 504 Eligibility Policies, Procedures, and Practices Review

The District will conduct a self-audit of its Section 504 eligibility policies, procedures, and practices to ensure that they do not include language that indicates that it is necessary for a student's disability to impact their education level for the student to be eligible for Section 504 services. The District will revise as necessary its Section 504 eligibility policies, procedures, and practices as necessary to ensure they comply with the provisions of 34 C.F.R. § 104 and Term 1 of the Agreement.

REPORTING REQUIREMENT A: By November 1, 2022, the District will submit to OCR the results of its self-audit, including redlined copies of the District's Section 504 eligibility policies, procedures, and a narrative describing any changes to the District's practices related to determining Section 504 eligibility. The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the policies, procedures, and practices.

REPORTING REQUIREMENT B: Within 30 days of OCR's approval, the District will provide documentation sufficient to demonstrate that any revisions to its Section 504 eligibility policies, procedures, and/or practices have been made and are reflected on the District's website, in all District publications (*e.g.*, parent, staff, and/or student handbooks) where Section 504 eligibility information is published. The District will provide OCR with the links to the webpages containing the revised policies, procedures, and/or practices, including links to all publications where information related to Section 504 eligibility appears.

REPORTING REQUIREMENT C: Within thirty (30) calendar days of receiving OCR's approval of the District's Section 504 eligibility policies, procedures, and practices, the District will provide OCR with documentation to show that the revised policies, procedures, and practices have been disseminated to all District administrators and employees who provide education or related services to students, including but not limited to, the District's Section 504 Coordinator(s), school-level administrators, teachers, support staff, and other individuals who may be involved in the Section 504 evaluation process.

Term 3: Staff Training

The District will provide Section 504/Title II training to the District's 504 Coordinator(s), Principals, and any staff directly involved in the Section 504 evaluation process. The training will include an overview of Section 504's procedural requirements, including the standard for determining whether an individual has a disability, Section 504 evaluation procedures, and an explanation that the list of major life activities present within the definition of "disability" under Section 504 is non-exhaustive. The training will specifically address that school districts may not consider whether a student's impairment impacts their education level when making a determination related to whether a student is eligible for Section 504 services.

