

**Resolution Agreement**  
**Otis R-3**  
**OCR Complaint Number 08-22-1373**

In order to resolve the open allegations in OCR Case Number 08-22-1373, filed against Otis R-3 (the District) with the Office for Civil Rights (OCR) of the U.S. Department of Education, pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 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. §§ 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 Complainant's son (the Student) or any other person.

**Compensatory Educational Services**

1. The District will convene a multidisciplinary team (the Team) consistent with the evaluation and placement procedures under 34 C.F.R. §§ 104.35 and 104.36 within 30 days from the date the District signs this Agreement to determine whether compensatory educational services are appropriate for the Student considering the Complainant's concern with implementation of the Student's Individualized Education Program (IEP) from January 2022 to April 2022. Specifically, the Team will consider the following areas of the Student's IEP for compensatory educational services:

- a. two staff members will be available at all times for safety;
- b. provided the Student with potty training;
- c. provided the Student with a communication device;
- d. provided progress reports to the Student's parents, and
- e. if the District allowed the Student to watch videos without earning videos as a reward.

The District will invite the Complainant, in writing, to attend the meeting, invite other individuals who are knowledgeable about the Student to attend the meeting, and share information and their perspectives at the meeting. The District's invitation to the Complainant will, at a minimum, explain the purpose of the meeting and include an agenda. The District will record the meeting and make the recording available to the Complainant and OCR upon request.

If the Team determines that compensatory educational services are appropriate for some or all of the identified areas and compensatory educational services are accepted by the Student's parent

or guardian, the District will initiate the provision of the services within 30 days from the date that the Team determines that the Student is entitled to compensatory educational services.

## **REPORTING REQUIREMENTS**

Within 30 calendar days from the date the District signs this Agreement, the District will submit for OCR's review all documentation relating to compensatory education services for the Student. Such documentation will include but is not limited to:

- a. the District's invitation to the Complainant and any responses from the Complainant;
- b. all documentation considered by the team;
- c. a narrative summary of the evaluation and placement meeting or meetings, including a summary of services that were considered and reasons for the adoption or rejection of each considered service;
- d. all evaluation and placement meeting notes;
- e. a written plan for providing compensatory education services, including timeframes for providing the services, and
- f. documentation of services it has offered or provided under the compensatory education plan.

### **Training Ensuring Notice and Implementation of IEP**

2. The District will provide training for its administrators, teachers, and support staff at Otis related to notice and full implementation of IEPs. The training will ensure that Otis's administrators, teachers, and support staff understand that they should know the content of a student's IEP, and their responsibility to fully implement each student's IEP before they begin working with the students.

## **REPORTING REQUIREMENTS**

Within 30 calendar days from the date the District signs this Agreement, the District will provide OCR with its draft training materials for OCR's review and approval. The District will also provide the name, title, and credentials of the proposed trainer.

The District will consider and respond to any feedback from OCR with respect to the draft training materials and proposed trainer. Within 60 school days of OCR's approval of the draft training materials and trainer, the District will conduct the training.

Within 10 calendar days of the completion of the training, the District will provide OCR documentation establishing it has provided the training including a list of the names and titles of

Otis administrators, teachers and support staff members who attended the training and copies of materials used in the training.

### **Aquarium**

3. Within 15 calendar days from the date the District signs this Agreement, the District will provide the Complainant with three tickets to the aquarium that was scheduled for Otis students on May 10, 2022, and a letter stating that the tickets are being provided in accordance with a resolution agreement between the District and OCR.

### **REPORTING REQUIREMENT**

Within 30 calendar days from the date the District signs this Agreement, the District will submit to OCR a copy of the three aquarium tickets, and a copy of the letter sent to the Complainant explaining the reason for providing the tickets.

### **Colorado Department of Human Services, Division of Child Welfare**

4. The District will conduct a prompt and equitable (*i.e.*, impartial, thorough, reliable, etc.) investigation into whether Otis staff retaliated against the Complainant because the Complainant advocated for the Student's rights and privileges secured by Section 504 and Title II.<sup>1</sup> If the investigation reveals that Otis staff retaliated against the Complainant, Otis will take prompt and effective steps that are reasonably calculated to end the retaliation, eliminate any effects of the retaliation, and prevent the retaliation from recurring.<sup>2</sup>

### **REPORTING REQUIREMENT**

Within 60 calendar days from the date the District signs this Agreement, the District will conduct the investigation required by Term 4 and submit to OCR:

- a. the name(s), title(s) or position(s), and qualifications of the individual(s) who conducted the investigation;
- b. a description of the investigation, including dates, the names and titles or positions of witnesses, and the records and communications reviewed;
- c. copies of records from the investigation;<sup>3</sup>

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<sup>1</sup> The alleged retaliatory actions included Otis staff reporting the Complainant to the Colorado Department of Human Services, Division of Child Welfare, during March 2022, and not including the Complainant in any parent/teacher conferences during the 2021 – 2022 school year because the Complainant advocated for the Student's special education needs.

<sup>2</sup> *e.g.*, taking disciplinary action against staff members who engaged in retaliation.

<sup>3</sup> *e.g.*, records reviewed, witness statements, interview notes, recordings reviewed, policies and procedures referenced, etc.

- d. a description of the determination regarding whether retaliation occurred and the rationale for the conclusion; and
- e. if retaliation is found, the remedial measure(s) the District took or will take.

The District understands that by signing this Agreement, it agrees to provide data and other 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 employees of the District, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement.

The District acknowledges that OCR will not close the monitoring of this Agreement until OCR determines that the District is in compliance with the terms of the Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case and with respect to the Student.

The District understands and acknowledges that OCR may initiate administrative enforcement proceedings to enforce the specific terms of this Agreement. Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

For Otis R-3:

/s/ Superintendent, October 28, 2022

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Name, Title, and Date