

**Resolution Agreement
Santa Fe Public Schools
Complaint Number 08-22-1497**

In order to resolve the open allegations in Case Number 08-22-1497, filed against the Santa Fe Public Schools (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 C.F.R. part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”), 42 U.S.C. §§ 12131–12134, and its implementing regulation at 28 C.F.R. part 35, the District agrees to implement the following Resolution Agreement.

During the initial stages of the investigation, OCR identified compliance concerns related to the complaint allegations. OCR also identified potential concerns regarding the District’s policies and procedures related to retaliation and the School’s alleged practices related to school staffings held before IEP meetings. Prior to completion of OCR’s investigation, the District expressed an interest in voluntarily resolving the complaint pursuant to Section 302 of OCR’s *Case Processing Manual* to address the identified compliance concerns. The District does not admit that discrimination or retaliation occurred, and is committed to ensuring an environment free from discrimination and retaliation. This Agreement does not constitute an admission of liability, non-compliance, or wrongdoing by the District.

Individual Remedies

1. By signing this Agreement, the District confirms that it has removed the June 22, 2022 letter of reprimand from the Complainant’s employee file, agrees that the letter will not be utilized or relied on in any way in any future employment action, and agrees that it will not subject the Complainant to any adverse action because she filed this OCR complaint. The District further agrees that students with disabilities will not be categorically excluded from the Complainant’s classroom in future school years.¹
2. In order to provide the Complainant an opportunity to be evaluated by a person other than the Principal and consistent with NMSA § 22-10A-19, the District will offer (1) to assign the Complainant to a comparable position at another elementary school, consistent with any contractual obligation; or (2) to allow the Complainant to remain in her current position.

REPORTING REQUIREMENTS:

Within thirty (30) calendar days of this Agreement being signed, the District will submit to OCR evidence of the procedure adopted by the District, and agreed to by the Complainant, if applicable, to satisfy Term 2 of this Agreement.

¹ OCR acknowledges that the District may make *individualized* decisions based on the best interests of a student.

Revision of District Policy

3. The District will revise both its employee-based and student-based policies regarding retaliation to address the compliance concerns identified in this case. At a minimum, the Policies will provide:
 - a. contact information for the District's Title IX Coordinator and Section 504 Coordinator;
 - b. provide clear information about how to file an internal grievance alleging retaliation regarding protected activity related to students;
 - c. contact information for OCR, as well as a statement that allegations of discrimination or retaliation may be brought to OCR in lieu of any internal grievance procedure;
 - d. clear definition(s) of retaliation; and
 - e. a clear explanation of who is protected from retaliation.

REPORTING REQUIREMENTS:

Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR proposed revised policies. The District will promptly and fully address OCR's feedback, if any, until the District receives approval from OCR regarding the revised policies.

Within forty five (45) calendar days of OCR's approval of the revised policies, the District will formally adopt and publish the policies. The District shall provide OCR a link to the revised policies on its website and a copy of an email to all District staff informing staff of the changes to the policies.

Training

4. The District shall provide training to the Principal and Assistant Superintendent regarding the prohibition on retaliation in the laws that OCR enforces. The District may provide the training to all principals and assistant principals if it wishes. At a minimum, the training will cover information related to the compliance concerns identified in OCR's investigation, including:
 - a. what constitutes protected activity;
 - b. what constitutes adverse actions;
 - c. who is protected from retaliation under District policy and the laws that OCR enforces; and
 - d. best practices to avoid retaliatory conduct.

The training should not be conducted by a District employee.

REPORTING REQUIREMENTS:

Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR the qualifications of the proposed trainer and an electronic copy of the proposed training. The

District will promptly and fully address OCR's feedback, if any, until the District receives approval from OCR regarding the proposed trainer and training.

Within thirty (30) calendar days of OCR's approval of the proposed trainer and training, the District will provide the training to the Principal and Assistant Superintendent and provide OCR a certificate of completion for each, signed by the trainer.

5. The District shall provide training to the Principal regarding the Section 504 evaluation and placement requirements and protection for students with disabilities against discrimination and different treatment. At a minimum, the training will cover information related to the compliance concerns identified in OCR's investigation, including:
 - a. the requirement that the District not pre-determine a student's placement or special education services, particularly in a school staffing prior to the IEP team meeting;
 - b. the requirement that a student's evaluation and placement is made by a team of persons, who may have different opinions about or knowledge of the student's individual needs or placement options; and
 - c. the requirement that students with disabilities not be subject to different treatment than students without disabilities.

The training may be provided by a District employee, such as the District's Section 504 Coordinator, or it may be provided by the same trainer as provides the training related to Agreement item 4.

REPORTING REQUIREMENTS:

Within sixty (60) calendar days of this Agreement being signed, the District will submit to OCR the qualifications of the proposed trainer and an electronic copy of the proposed training. The District will promptly and fully address OCR's feedback, if any, until the District receives approval from OCR regarding the proposed trainer and training.

Within thirty (30) calendar days of OCR's approval of the proposed trainer and training, the District will provide the training to the Principal and provide OCR a certificate of completion signed by the trainer.

6. The District shall send an email to District building-level administrators and all certified special education staff (including those operating on any temporary license) informing them that staff cannot pre-determine a student's placement or special education services, particularly in a school staffing prior to the IEP team meeting. The email should include reference and either a link or .pdf copy to District policies and internal guidance regarding the IEP process.

REPORTING REQUIREMENTS:

Within thirty (30) calendar days of this Agreement being signed, the District will submit to OCR documentation that it sent the email and necessary links or copies to all relevant staff.

Internal Investigation

7. The District shall conduct a formal disciplinary investigation into the Principal's conduct related to this complaint and investigation and, if warranted, take appropriate disciplinary action. The investigation should, at a minimum, determine whether the Principal violated any District policy or federal statute or regulation prohibiting retaliation, including whether the Principal solicited allegations against the Complainant from Teachers A and B or directed staff to exclude students with disabilities from the Complainant's classroom.

The District must provide a formal notice of investigation to the Principal describing the questions it will investigate, a formal summary of investigatory findings that describe the investigation, the information gathered, the relevant legal standards, and the conclusions reached, and, if necessary, a formal decision describing any appropriate disciplinary sanction for the Principal.

At a minimum, the investigation should include:

- a. interviews² with the Principal, Complainant, Teacher A, Teacher B, and members of the team that made 4th grade classroom assignments at the School for the 2022-23 school year;
- b. opportunity for the Principal, Complainant, and witnesses to submit documentation and provide rebuttal to any witness statement that directly contradicts a previous statement;
- c. review of District elementary classrooms to determine whether any other teacher had no students with disabilities assigned to their classroom in the past 2 academic school years; and
- d. review of all relevant emails to and from the Principal regarding any of the investigatory questions described above.

The investigator may be the District's Section 504 Coordinator, if that person is not the Assistant Superintendent or a person who reports to the Assistant Superintendent, or it may be an outside investigator.

REPORTING REQUIREMENTS:

Within ninety (90) calendar days of this Agreement being signed, the District will submit to OCR all documentation related to the investigation.

By signing this Agreement, the District agrees to provide data and other 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 District to 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

² All interviews should be documented with a written summary of the interview.

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.

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.

The District understands and acknowledges that OCR may initiate administrative enforcement proceedings or refer this case to the Department of Justice (DOJ) for judicial proceedings in the event of breach to enforce the specific terms and obligations of the Agreement and/or the applicable statute(s) and regulation(s). 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.

This Agreement will become effective upon the signature(s) of the representative for the District.

For Santa Fe Public Schools:

Hilario Chavez
Superintendent

Date