

RESOLUTION AGREEMENT
Mammoth-San Manuel Unified School District
OCR Case 08-22-1612

Mammoth-San Manuel Unified School District (District) agrees to implement this Resolution Agreement (Agreement) to resolve the violations identified by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), and their implementing regulations, in the above-referenced OCR case. The Recipients assure OCR that they will take the following actions to comply with the requirements of Section 504 and Title II.

In this case, OCR found, by a preponderance of the evidence, that the District: (a) failed to reevaluate and adjust services and supports for the Student, despite evidence that the Student's disability-related needs were no longer being met within his current placement and the Student was developing new or more significant behaviors that impede learning; (b) failed to provide the Complainant with procedural safeguards upon denying her request for an evaluation of the Student; and (c) has a practice of removing students from Section 504 plans without complying with Section 504's procedural requirements. Additionally, OCR identified a compliance concern regarding whether the District is making placement decisions based on intellectual testing alone, rather than based on information from a variety of sources.

Term I: Compensatory Services or Other Remedial Measures for the Student

The District will convene a group of knowledgeable people (Team) to discuss whether the District's failure to timely reevaluate the Student or reconvene a team meeting to discuss additional or different services or supports for the Student resulted in the Student being denied a free appropriate public education (FAPE). If so, the Team will then create a written plan (Plan) to provide compensatory services or other remedial measures to the Student (at no cost to the Student or Complainant).

The District will invite the Complainant, in writing, to attend the Team meeting. In the invitation, the District will: (a) explain the purposes of the meeting; (b) explain that the Complainant is permitted to invite others who are knowledgeable about the Student to attend the meeting; and (c) provide the name, title or position, phone number, and email address of a District employee who the Complainant may contact to schedule the meeting.

The District will ensure that: (a) the meeting occurs in a timely manner; (b) the meeting occurs at a date, time, and location that are mutually agreed upon by the District and Complainant, if she chooses to attend; (c) the Team and meeting are consistent with the procedural requirements of Section 504; (d) the Complainant is permitted to invite persons knowledgeable about the Student to attend the meeting; and (e) the Team carefully considers all information provided by all parties present at the meeting.

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 any; and (c) provide the Complainant with a copy of the District’s applicable procedural safeguards.

If a Plan is created, it will include the: (a) type(s) of compensatory services or other remedial measures to be provided; (b) amount(s) of compensatory services or other remedial measures to be provided; (c) name(s) and title(s) or position(s) of the person(s) who will be responsible for providing the compensatory services or other remedial measures; (d) location(s) where the compensatory services or other remedial measures will be provided; (e) schedule for the provision of the compensatory services or other remedial measures; and (f) name and title or position of the District employee who will ultimately be responsible for implementation of the Plan. The District will implement the Plan, if any, with fidelity.

Reporting Requirement A: Within 10 calendar days of this Agreement being signed, the District will submit to OCR for review a draft invitation to the Complainant. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that the invitation is approved.

Reporting Requirement B: Within 10 calendar days of receiving OCR’s approval of the invitation pursuant to Reporting Requirement A, the District will email the approved offer to the Complainant, and copy OCR on the correspondence. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement B.

Reporting Requirement C: Within 45 calendar days of the District sending the invitation to the Complainant, the District will submit to OCR: (i) a copy of all communications with the Complainant regarding the meeting, including documentation showing that the Complainant was notified of the decisions made at the meeting, received a copy of the Plan, if any, and received a copy of the District’s applicable procedural safeguards; (ii) a list of all individuals who attended the meeting, including each individual’s first and last name and title or position; (iii) notes or minutes from the meeting reflecting the Team’s decisions, the perspectives shared by individuals during the meeting, the information that the Team considered in reaching its decisions, and the rationales for the decisions made at the meeting. 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 Reporting Requirement C.¹

Conditional Reporting Requirement D: 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 Reporting Requirement C or within 15 calendar days of fully implementing the Plan,

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

whichever occurs first, documentation showing that the District has implemented or is in the process of implementing the Plan. The District will promptly and fully address OCR's concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement D.²

Term II: Compensatory Services or Other Remedial Measures for Other Students

The District will convene a group of knowledgeable people (Team) for Student 1 and a Team for Student 2 (collectively, "Students") to discuss whether the District's improper elimination of their Section 504 plan resulted in a denial a free appropriate public education (FAPE). If so, the Team will then create a written plan (Plan) to provide compensatory services or other remedial measures to the Students (at no cost to their parents or guardians).

The District will invite the Students' parents or guardians, in writing, to attend a Team meeting. In the invitation, the District will: (a) explain the purposes of the meeting; (b) explain that the parents and guardians are permitted to invite others who are knowledgeable about the Students to attend the meeting; and (c) provide the name, title or position, phone number, and email address of a District employee who the Students' parents or guardians may contact to schedule the meeting.

The District will ensure that: (a) the meetings occurs in a timely manner; (b) the meetings occur at a date, time, and location that are mutually agreed upon by the District and Students' parents or guardians, if they choose to attend; (c) the Teams and meetings are consistent with the procedural requirements of Section 504; (d) the Students' parents or guardians are permitted to invite persons knowledgeable about the Students to attend the meeting; and (e) the Teams carefully consider all information provided by all parties present at the meeting.

Within 10 calendar days after the meeting, the District will: (a) notify the Students' parents or guardians, in writing, of the decisions made at the meeting; (b) provide the Students' parents or guardians with a copy of the Plan, if any; and (c) provide the Students' parents or guardians with a copy of the District's applicable procedural safeguards.

If a Plan is created for either or both Students, it will include the: (a) type(s) of compensatory services or other remedial measures to be provided; (b) amount(s) of compensatory services or other remedial measures to be provided; (c) name(s) and title(s) or position(s) of the person(s) who will be responsible for providing the compensatory services or other remedial measures; (d) location(s) where the compensatory services or other remedial measures will be provided; (e) schedule for the provision of the compensatory services or other remedial measures; and (f) name and title or position of the District employee who will ultimately be responsible for implementation of the Plan. The District will implement the Plan(s), if any, with fidelity.

² This case will remain in monitoring until all compensatory services or other remedial measures (if any) have been provided.

Reporting Requirement E: Within 10 calendar days of this Agreement being signed, the District will submit to OCR for review draft invitations to the Students’ parents or guardians. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that the invitations are approved.

Reporting Requirement F: Within 10 calendar days of receiving OCR’s approval of the invitations pursuant to Reporting Requirement A, the District will email the approved offer to the Students’ parents or guardians, and copy OCR on the correspondence. The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement F.

Reporting Requirement G: Within 45 calendar days of the District sending the invitations to the Students’ parents or guardians, the District will submit to OCR: (i) a copy of all communications with the parents or guardians regarding the meeting, including documentation showing that the parents or guardians were notified of the decisions made at the meeting, received a copy of the Plan, if any, and received a copy of the District’s applicable procedural safeguards; (ii) a list of all individuals who attended the meeting, including each individual’s first and last name and title or position; (iii) notes or minutes from the meeting reflecting the Teams’ decisions, the perspectives shared by individuals during the meeting, the information that the Teams considered in reaching their decisions, and the rationales for the decisions made at the meetings. 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 Reporting Requirement G.

Conditional Reporting Requirement H: 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 Reporting Requirement G or within 15 calendar days of fully implementing the Plan, whichever occurs first, documentation showing that the District has implemented or is in the process of implementing the Plan. The District will promptly and fully address OCR’s concerns, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement H.³

Term III: Policies and Procedures

The District will review and revise its existing policies and procedures – or, if necessary, develop new policies and procedures – to help ensure that students with disabilities are evaluated, placed, and provided with a FAPE consistent with Section 504, Title II, and their implementing regulations. Specifically, the revised or new policies and procedures will address: (a) evaluation and placement of students with disabilities; (b) reevaluating students, including students with disabilities who demonstrate behavioral issues; (c) providing a FAPE to students with disabilities

³ This case will remain in monitoring until all compensatory services or other remedial measures (if any) have been provided.

who demonstrate behavioral issues; (d) providing procedural safeguards to parents and guardians; and (e) exiting/taking students off of Section 504 plans.

After the policies and procedures are approved by OCR, the District will: (a) disseminate the approved policies and procedures to all District staff; and (b) make the approved policies and procedures available to all students and parents, including by, at a minimum, posting the policies and procedures on the District’s “Special Education” webpage.

Reporting Requirement I: Within 60 calendar days of this Agreement being signed, the District will submit to OCR a draft of the policies and procedures. The District will promptly and fully address OCR’s feedback until the District receives notification from OCR that the policies and procedures are approved.

Reporting Requirement J: Within 30 calendar days of receiving notice from OCR that the policies and procedures are approved, the District will: (i) disseminate the policies and procedures as required by Term III; and (ii) submit to OCR documentation showing that the policies and procedures were disseminated as required by Term III (e.g., a copy of an email to staff, showing the recipients, with the policies and procedures attached, and a list of hyperlinks). The District will promptly and fully address OCR’s feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement J.

Term IV: Staff Training

The District will train all relevant staff about the policies and procedures approved by OCR pursuant to Term III of this Agreement. Relevant staff will include, at a minimum all: (a) Special Education Department staff; (b) school administrators (e.g., principals and assistant principals); (c) school psychologists; and (d) special education teachers.

Reporting Requirement K: Within 30 calendar days of receiving notice from OCR that no further reporting is required for Reporting Requirement J, the District will submit to OCR for review and approval: (i) draft training materials; (ii) the name(s), title(s) or position(s), and qualifications of one or more qualified individuals to provide the training; and (iii) a list of proposed individuals to be trained, including each person’s name, work location (*i.e.*, District department or school), and title or position. The District will promptly and fully address OCR’s feedback, if any, until the District receives OCR’s final approval of the training materials, trainer(s), and list of trainees.

Reporting Requirement L: Within 30 calendar days of the start of the 2023-2024 school year, and after receiving OCR’s final approval of the training materials, trainer(s), and list of trainees, the District will ensure that the approved trainer(s) conduct the training, using the approved materials, for all individuals on the approved list of trainees. The District will also submit to OCR: (i) the date, time, and location of the training; (ii) confirmation that the approved trainer(s) delivered the training; (iii) confirmation that the approved materials were used for the training; (iv) the names and titles or positions of all staff who attended the training; and (v)

if applicable, the name(s) and title(s) or position(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 feedback, if any, until OCR notifies the District that no further reporting is required for Reporting Requirement L.

GENERAL REQUIREMENTS

The District understands that by signing this Agreement, the District agrees to provide the foregoing 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, 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 Section 504, Title II, and their implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, respectively, which were at issue in this case. Upon completion of the obligations under this Agreement, OCR will close this case.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504, Title II, and their implementing regulations, which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

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

For the District:

/s/
Julie Dale-Scott, Superintendent

2/2/23
Date