



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310
DENVER, CO 80204-3582

REGION VIII

ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

RESOLUTION AGREEMENT
Queen Creek Unified School District
OCR Case No. 08-23-2296

The United States Department of Education (Department), Office for Civil Rights (OCR) and the Queen Creek Unified School District (District) enter into this Resolution Agreement (Agreement) to resolve the allegations in the above-referenced case. The District's decision to enter into this Agreement is not an admission of liability or wrongdoing, nor shall it be construed as such. The District assures OCR that it 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.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability by recipients of federal financial assistance; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

I. Information Collection and Record Keeping of Disciplinary Removals.

- A. The District will adopt a system to ensure that it tracks each incident in which a student with a disability is formally or informally removed from their educational setting for behavior-related reasons.¹ This system will include, at a minimum, a mechanism to track the following information:
 - a. All formal or informal instances of behavior-related removals for any length of time, and to include instances such as going to the administrative office,

¹ Included in OCR's definition of "informal removals" or "informal exclusions" are "excused absences" or "time in office," which will also be recorded.

being picked up by a parent or guardian prior to the end of the school day, or walking outside to “cool off;”

- b. Name of the student removed for behavior-related reasons;
 - c. The date, time of day, and length of time for each formal or informal removal;
 - d. A description of the behavior that led to each removal;
 - e. The nature of the removal or a description of the removal;
 - f. The location to which the student was removed;
 - g. The name of the teacher(s) or staff member(s) who removed the student; and
 - h. The name of the teacher(s) or staff members(s) who were present with the student after the student was removed.
- B. The District will develop and adopt a procedure designed to ensure the accurate, timely, and thorough collection of the information required by Term A. The procedure will include, at a minimum:
- a. Description of how the system must be made available to staff on an on-going basis;
 - b. Directive that the staff recording information in the system will be either the teacher or staff member most knowledgeable about the student or the staff member who initiated the removal;
 - c. Directive that the form or database entry will be completed no later than 24 hours after the removal; and
 - d. Statement indicating who will be responsible for maintaining the system and its records.

C. The District will disseminate the approved system and procedure by, at a minimum:

- a. Posting a link or description of how staff can access the system; posting the procedure in the District's online policy manual and staff intranet website, and sending it to all District personnel; and
- b. Adding a description or link as to how to access the system, and adding the procedure to all staff handbooks.

Reporting Requirement (I)(1). Within 60 calendar days of this Agreement being signed, the District will submit to OCR (i) a description with sample (such as a screenshot) or description of the data collection mechanism of the system all of which includes the information required by Term A; and (ii) a draft of the procedure required by Term B.² The District will promptly and fully address OCR's feedback, if any, until the District receives OCR's final approval of the form/database and procedure.

Reporting Requirement (I)(2). Within 30 calendar days of the District receiving OCR's final approval of the system and procedure, the District will: (i) disseminate the approved form/database and procedure as required by Term C; (ii) submit to OCR documentation demonstrating that the approved form and procedure were disseminated as required by Term C; and (iii) provide OCR with a brief written statement confirming that its information collection system is fully operational. The District will promptly and fully address OCR's feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement (I)(2).

II. Staff Training.

- A. Using one or more qualified trainers, the District will annually train all relevant staff, which will include principals, assistant principals, deans, behavior interventionists, related service providers, special education teachers and aides, general education teachers, guidance counselors, and any other staff deemed relevant by the District. The training will cover the following topics:
 - a) The system and procedure approved pursuant to Term I;
 - b) The District's obligation to comply with Section 504 and Title II of the American's With Disabilities Act;
 - c) The District's obligation to provide a Free Appropriate Public Education (FAPE);

² Subject to OCR approval, the District and OCR can make adjustments to what this reporting requirement will look like as questions arise (e.g., screenshots, narrative explanations, training presentation of the database to OCR, providing OCR access to the database, etc.).

- d) Regardless of what term the District utilizes to describe a removal from the classroom, the educational impact on the student, rather than the specific term used to describe the removal (e.g., “time in office,” “excused absence,”) is what matters when determining a school’s compliance with Section 504’s FAPE requirements³;
- e) How a District’s lack of appropriate record keeping, including record keeping regarding informal exclusions, may deny a student a FAPE and signal the need for an evaluation or re-evaluation; and
- f) The District’s obligation to remedy any denial of FAPE that resulted from the District’s lack of appropriate record keeping.

Reporting Requirement (II)(1). Within thirty (30) calendar days of receiving notice from OCR that no further reporting is required for Term I regarding the development of policies, forms, and procedures, the District will submit to OCR: (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(s); and (iii) a list of proposed individuals to be trained, including each person’s name, location (*i.e.*, central office or school name), 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 trainee list, and notice from OCR that no further reporting is required for Reporting Requirement (II)(1).

Reporting Requirement (II)(2). Within thirty (30) calendar days of receiving OCR’s final approval of the training materials, trainer(s), and trainee list, the District will conduct the training and submit to OCR: (i) the date(s), time(s), and location(s) of the training session(s); (ii) confirmation that the approved training materials were used; (iii) confirmation that the approved trainer(s) was used; (iv) the names, locations, and titles or positions of staff who attended the training(s); and (v) the names, locations (*i.e.*, central office or school name), and titles or positions of staff who did not attend the training, an explanation for each person’s absence, and a plan to train each person. The District will promptly and fully address OCR’s feedback, if any, until the District receives notice from OCR that no further reporting is required for Reporting Requirement (II)(2).

III. Compensatory Services for the Student.

- A. Within twenty (20) days of the start of the 2023-24 school year, the District will convene an Individual Education Program (IEP) team meeting. The IEP Team (“Team”) will determine whether the Student is entitled to compensatory services since the start of the 2022-23 school year. Specifically, the Team will consider what, if any, compensatory services, including educational, social, or emotional, are owed to the student as a result of

³ See *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973*, U.S. Department of Education (July 2022), available at: www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf

the Student allegedly not receiving specific special education or related services during the 2022-23 school year. Based on the Team's findings, the Team will determine the type and number of hours of compensatory services, if it determines that such services are necessary, to make up for any missed educational services. The Team will then develop a plan for providing those compensatory services to the Student within six months. The District will promptly notify the parents in writing of the compensatory services being offered at no cost to the parents and the proposed, prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 36. The District will ensure that any decisions reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Student's parents and their invitees. The Team will include District employees who have knowledge of the matters being considered by the Team.

Reporting Requirement (III)(1). Within thirty (30) calendar days of the meeting of the IEP Team, the District will submit documentation to OCR that includes the following:

- A list of the individuals who attended the meeting (by name, title, and role in the meeting);
- Documentation of the District's invitation to the parents to attend the meeting and obtain their input;
- A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
- Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
- Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions;
- A plan for the prompt provision of compensatory services to the Student at no cost to the parents;
- Documentation that the Complainant was notified in writing of the compensatory services offered by the District; and
- Documentation that the District provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II of the ADA.

The District will promptly and fully address feedback, if any, from OCR until it receives OCR's approval regarding the documentation and no further reporting is required for Reporting Requirement (III)(1).

Reporting Requirement (III)(2). If the District delivered compensatory services to the Student, within six (6) months of the meeting, the District will submit documentation to OCR demonstrating that all of the compensatory services determined by the Team have been provided to the Student. The District will promptly and fully address feedback, if any, from OCR until it receives OCR's approval regarding the documentation and no further reporting is required for Reporting Requirement (III)(2) or for Paragraph III.

The District understands that by signing this Agreement, it 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 and its implementing regulations at 34 C.F.R. Part 104 and Title II of the ADA and its implementing regulations at 28 C.F.R. Part 35 which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 and Title II of the Americans With Disabilities Act, which were at issue in this Complaint.

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 shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

FOR Queen Creek Unified School District:

(Name, Title)

Date