

**RESOLUTION AGREEMENT**  
**Palo Alto Unified School District**  
**OCR Case No. 09-11-1337**

The Palo Alto Unified School (District) agrees to implement this Resolution Agreement without admitting to any violation of law to voluntarily resolve the issues in the above-referenced complaint. The complaint was investigated by the U.S. Department of Education, Office for Civil Rights (OCR), under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.

The District agrees to take the following steps:

**I. Individual Student - Evaluation and Placement**

Within 60 days of the date of this agreement, the District will complete the evaluation and placement steps described below. The District may start this process before this agreement is executed.

- A. The District will hold an Individualized Education Program (IEP) meeting, which is to be attended by a team of individuals knowledgeable about the Student, about evaluation data concerning the Student. The purpose of the meeting, and subsequent meetings if necessary, is to ensure that the Student's disabilities are fully and correctly identified, and that the Student's IEP provides a placement and services that are adequate to meet all of the Student's individual disability-related needs.
- B. The Student's family will be given reasonable notice of the date on which the team will meet and be given opportunity to attend and to submit records or other information.
- C. At the meeting, the IEP team will review whether additional evaluation of the Student is needed to fully and accurately identify the Student's disabilities. Specifically, the team will review whether evaluation for a learning disability and/or a full functional behavioral assessment is needed; the team will review all existing records pertinent to these determinations.
- D. If the team determines that additional or more recent evaluation data are necessary to fully and correctly identify the Student's disabilities, the District will complete the necessary assessments within 30 days of parent consent to the assessment, and the date for completing the placement process may be extended for an additional 10 days. If the team determines that additional assessment is not needed, the team will document the reasons for that determination in the Student's IEP or an addendum.
- E. Either (a) at the initial meeting if the team determines that no additional assessments are needed or (b) at a subsequent meeting held within five days of the date of completion of any additional assessments, the team will review whether the services, accommodations

and modifications currently in place for the Student are appropriate and sufficient to meet her individual needs, or whether additional or alternate services, accommodations or modifications are needed. Specifically, the team will review whether behavior-related services and/or a full- or part-time behavior aide are needed to meet the Student's individual needs. All decisions concerning whether or not services, accommodations or modifications are needed, and the basis for the decisions, will be documented in the Student's IEP or an addendum. The District will have complied with this agreement if it schedules the meeting within the applicable timelines and documents that it has made at least two attempts to secure the Student's family's participation at the meeting.

- F. The Student's family will be provided with written notice of procedural safeguards at the initial meeting.

## **II. Individual Student - Harassment**

- A. Within 10 days of the date of this agreement, the District/School, the family and the Student will meet to discuss and agree upon the steps the Student and/or family should take to report any future instances of alleged disability-based harassment and the process the District/School will use to respond. If the Student's family cancels or requests postponement of the meeting, the District will schedule another meeting to occur within two days of the request for postponement. Should the District/School and the Student's family be unable to agree on the steps for reporting or the process for response, the District will develop a reasonable protocol which shall include a designated person to whom allegations of harassment are to be directed, and a reply by the School that will include an investigation and written response to the Student's family.
- B. The District will designate an individual staff member at the school of attendance, agreed upon by the family and Student, to whom the Student should report harassment.
- C. The process developed in II.A and II.B will be described in writing with a copy given to the family and the Student.

## **III. Training and Guidance for Administrators and Teaching Staff Concerning Harassment Based on Disability and Responding to Complaints of Harassment<sup>1</sup>**

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<sup>1</sup> Title II of the ADA prohibits discrimination against any "qualified individual with a disability". Specifically, it protects individuals who have a physical or mental impairment that substantially limits a major life activity, a record of such an impairment, or are regarded as having such an impairment, whether they do or not. This Agreement considers students with disabilities to include those with IEPs or Section 504 plans, learning disabilities, disabilities which may be hidden or non-apparent, and those who may be regarded as disabled by others.

- A. The District will provide mandatory training on disability-based harassment to all school site administrators in the District. OCR is available to provide the first training. The training will take place during the spring of the 2012-2013 school year. District site administrators will then train the teachers at their school within the first three months of the school year. At each training, the District will also distribute a guidance memorandum or bulletin. The training and guidance memorandum will include the topics listed below:
1. the District policy prohibiting discrimination and harassment of a student by other students or by District employees based on disability;
  2. the October 2010 “Dear Colleague” Letter issued by OCR, which clarifies the relationship between bullying and discriminatory harassment and how schools should respond;<sup>2</sup>
  3. the types of conduct that could constitute disability-based harassment, such as verbal acts and name-calling, graphic and written statements about a disability or disability-related characteristics or about classroom accommodations, or other conduct that may be physically threatening, harmful or humiliating.
  4. an explanation that the Uniform Complaint Procedure is the District’s procedure for resolving disability discrimination complaints; a summary of the procedure; a reference to where individuals can locate the full procedure, and the name and contact information of the District-level individual responsible for responding to complaints of disability-based discrimination, including harassment;
  5. what an administrator should do if he or she learns of harassment of a student by a peer or by an employee based on disability;
  6. students, parents or guardians who report disability discrimination, including harassment, must be notified that they can address their complaints through the District’s discrimination complaint process and how to obtain a copy of the procedure;
  7. investigations must include interviews of all relevant witnesses, including the individual alleged to have been subjected to discrimination, and anyone else who is reasonably likely to have knowledge of the alleged discrimination;

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<sup>2</sup> On October 26, 2010, OCR released a Dear Colleague Letter concerning recipients’ obligations to protect students from student-on-student harassment on the basis of sex; race, color and national origin; and disability. The full text of the letter may be found at the following link: <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>.

8. records must be maintained documenting the processing and resolution of discrimination complaints, including documentation of witness interviews;
9. as required by the Uniform Complaint Procedures, the complainant must be provided with written notice of the outcome of the complaint including a statement of all the issues raised, the findings made on each issue and the rationale for each, the corrective actions for each issue, if any, and notice of the right to appeal; and
10. designation of a knowledgeable individual at the District Office to serve as a resource for any administrators or school site staff members who have questions as to how the guidance applies to a given situation and/or scenario.

**IV. Notice to Parents and Students**

- A. The District will issue to all District students, parents and staff a notice that will also be printed in the School's newsletter, posted in prominent locations at the School, and published on the school's website. The notice will:
  1. state that the District does not tolerate discrimination, including acts of harassment, based on disability, and that the District is committed to conducting a prompt investigation of complaints of disability-based discrimination;
  2. encourage any student who believes he or she has been subjected to harassment based on disability to report it to a teacher or administrator, and include contact information for the designated school administrator to whom students and parents may report allegations of harassment;
  3. advise that students found to have engaged in acts of harassment based on disability may be disciplined and that such discipline may include suspension or expulsion.
- B. The District will take age-appropriate steps to communicate to students at District middle schools that harassing other students because of their disabilities is inappropriate and will not be tolerated by the school.

**V. Information for Middle and High School Students and Parents**

- A. The District will modify the "Complaint Procedures" section of the written and online versions of the middle schools' handbooks to include the word "disability" as a basis that may give rise to a discrimination complaint. By September 1, 2013, all middle school students will be given a hard copy of the revised School Student Handbook.
- B. The District will provide annual age-appropriate student instruction for middle and high school students for the next three years. This instruction is designed to increase

awareness of what constitutes disability- based harassment, inform students of the consequences of harassment, and encourage students to report disability-based harassment. The topics of the instructional program should include, but are not limited to:

1. The types of conduct that could constitute such harassment, including such as verbal acts and name-calling, graphic and written statements about a disability or disability-related characteristics or about classroom accommodations, or other conduct that may be physically threatening, harmful, or humiliating;
2. The negative impact that such harassment has on the educational environment; and
3. How students should respond if they experience or witness such harassment, including the reporting avenues available.

#### **VI. Monitoring and Reporting**

- A. Within 30 days of the IEP team meeting held pursuant to Section I. A., the District will submit the following to OCR: (a) the IEP team's decision pursuant to Section I.C. regarding an evaluation for the Student and, if an evaluation is to be conducted, the scheduled date(s); (b) a copy of the IEP produced at the meeting, including notes and addenda; and (c) verification that the Student's family was provided notice of procedural safeguards.
- B. If additional evaluation is conducted pursuant to Section I, the District will provide OCR with a copy of the evaluation report within 15 days of the date of completion of the evaluation.
- C. Within 15 days of either the first meeting, or the second meeting if additional evaluation is conducted, the District will provide OCR with a copy of the Student's revised IEP and addenda, along with confirmation that it has been distributed to each of the Student's teachers.
- D. Pursuant to Section II, the District will provide documentation to OCR showing that it has met with the Student and the family to review the reporting and response process for any future instances of disability-based harassment, and that it has provided them with a description of the reporting and response process in writing.
- E. The District will submit a draft of the guidance memoranda required by Section III.A to OCR by February 15, 2013.

- F. The District will distribute the final version of the memorandum to administrators and staff, with a copy to OCR, within 30 days of receiving OCR's approval of the draft. The District will provide documentation that it has distributed the memorandum to administrators and staff within 30 days of receiving OCR's approval of the draft.
- G. By February 15, 2013, the District will notify OCR of whether it wishes OCR to conduct the training in Section III. If the District has chosen a provider other than OCR, the District will provide OCR with a copy of the agenda and summary of the content of the training, as well as the name of the trainer, and will confer with OCR to ensure that the content of the training meets the requirements of this Agreement.
- H. By March 15, 2013, if the District has selected a provider other than OCR for the training in Section III, the District will provide OCR with documentation demonstrating that the training has been completed. The documentation is to include the date(s) of training, the names of the trainer(s), the agenda and materials from the training, and a list of the participants.
- I. By March 15, 2013, the District will provide OCR with a copy of the notice that was distributed to all parents and guardians of students attending District schools as referenced in Section IV. A.
- J. By March 15, 2013, pursuant to Section V.A, the District will modify the online versions of the middle schools' student handbooks; by March 30, 2013, the District will provide OCR with copies of the revised "Complaint Procedures" sections of the middle school Student Handbooks.
- K. By March 15, 2013, the District will provide OCR with a description of how it intends to provide the student instruction in Section V.B, including who will deliver the instruction and the schedule for providing it. The District will confer with OCR to ensure that the instruction meets the requirements of this Agreement.
- L. By June 1, 2013, the District will provide OCR with documentation demonstrating that the student instruction in Section V.B. has been completed. The documentation will include the date(s) of the instruction, the names of the individuals providing the instruction, and copies of the materials used and/or given to students.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement in compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, which were at issue in this case.

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. 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 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. part 104, and Title II of the Americans with Disabilities Act and its implementing regulations at 28 C.F.R. part 35, 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 this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

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Kevin Skelly, Ph.D.  
Superintendent

Palo Alto Unified School District

\_\_\_\_\_12/14/2012\_\_\_\_\_

Date