

Elk Grove Unified School District
Resolution Agreement
OCR No. 09-12-1425

The Elk Grove Unified School District (District) agrees, without admitting to any violation of law, to implement the following Resolution Agreement (Agreement) to resolve the issues investigated by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA) in the above-referenced OCR case number.

I. REVISION AND DISSEMINATION OF UNIFORM COMPLAINT PROCEDURES (UCP) POLICIES AND REGULATIONS

- A. By March 1, 2015, the District will adopt a revised Uniform Complaint Procedure Policy which provides for a process for the receipt, investigation and resolution of complaints. The revised Board Policy, and if subsequently developed, any corresponding Administrative Regulation, shall incorporate the substance of the language previously discussed with OCR as set forth in the document included with this Agreement behind Attachment 1.
- B. By March 15, 2015, the District will develop an Annual Notification of Uniform Complaint Procedures which is consistent with the District's revised Uniform Complaint Procedures.
- C. By March 15, 2015, the District will post the revised Uniform Complaint Procedures at the Web address: http://www.egusd.net/prevention/documents/BP1312_3.pdf.
- D. Within fifteen (15) days of the District adopting the document(s) required by paragraph (I)(A), the District will publish on its website a notice that the revisions have been made along with a copy of or a link to each revised document. The notice and revised documents will remain posted on the District's website for a period of at least sixty (60) days.

Reporting Requirements

- E. Within sixty (60) days of the District adopting and developing the documents required by paragraphs (I)(A) and (I)(B) of this Agreement, the District will provide to OCR a copy of the Board minutes or other documentation verifying that the documents have been adopted/developed along with a copy of each revised document.

The District will also provide to OCR a copy of the revised Annual Notification required by paragraph (I)(B) of this Agreement along with a statement verifying that previous versions of any pamphlets or Annual Notifications are no longer being disseminated or published.

- F. Within thirty (30) days of publishing the notice and revised documents on its website as required by paragraph (I)(D) of this Agreement, the District will provide to OCR a statement verifying that the posting has occurred along with a link to the webpage where the posting may be found.

II. IDENTIFICATION, DEVELOPMENT, APPROVAL, AND DISSEMINATION OF POLICIES, REGULATIONS, AND PROCEDURES REGARDING EXTRACURRICULAR & NONACADEMIC SERVICES

Identification of Policies, Regulations, and Procedures

- A. By December 15, 2014, the District will identify its policies, regulations, and procedures that are intended to address Section 504's requirements, as implemented through 34 C.F.R. §§ 104.34(b) & 104.37(a)(2), that it provide to its students with disabilities extracurricular and nonacademic services in such a manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities. Specifically, 34 C.F.R. § 104.34(b) requires that when providing or arranging for the provision of nonacademic and extracurricular services and activities, the District shall ensure that a student with a disability participates with nondisabled persons in such activities and services to the maximum extent appropriate to the needs of the student with a disability in question. Section 104.37(a)(1) requires the District to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities.¹

Reporting Requirement

- B. Within ten (10) days of identifying the policies, regulations, and procedures as required by paragraph (II)(A) of this Agreement, the District will inform OCR of the specific documents identified and provide a copy of each. In the event that the District does not identify any documents, then it will so inform OCR and proceed to complete the actions required by the next section of this Agreement (Development of Plan to Ensure Compliance).

Development of Plan to Ensure Compliance

- C. Within fifteen (15) days of notifying OCR of the documents as required by paragraph (II)(B) of this Agreement, the District will discuss with OCR: the content of the documents; their accuracy, scope, coverage, adequacy, effectiveness, location and manner of dissemination; and, whether any revisions or changes need to be made.

¹A similar obligation is found in the regulations implementing Title II of the ADA. See 28 C.F.R. § 35.130.

Within thirty (30) days of completing the discussion with OCR, the District will develop a written plan, the content of which will be approved by OCR, which will ensure that the District's policies, regulations, and procedures are compliant with Section 504's requirements that extracurricular activities and nonacademic services are provided in a manner contemplated by 34 C.F.R. §§ 104.34(b) & 104.37(a)(1). The plan may require no changes or revisions to existing documents, only minor revisions and changes, or that entirely new documents be created.

Fulfillment of the Plan (Development of Compliant Documents)

D. Within ninety (90) days of OCR's confirmation of the written plan, the District will complete the requirements of the plan and develop documents for review by OCR.

Approval and Implementation of the Documents

E. Within sixty (60) days of OCR's completing its review of the documents and returning them to the District, the District will work with OCR to incorporate agreed-upon changes and submit any documents that require Board approval to the Board for review and approval at a duly noticed board meeting. Should the Board require revisions and another reading of proposed changes to Board Policy, policies shall be resubmitted to the Board for approval.

Reporting Requirement

F. Within ten (10) days of the adoption of documents contemplated by paragraph (II)(E) of this Agreement, the District will provide to OCR written confirmation along with a copy of final documents approved by the Board.

Dissemination and Publication of the Documents

G. Within fifteen (15) days of the adoption of the documents, the District will post notice of the adoption of the documents on its website along with either a copy of the documents or a link to the documents. The notice and documents will remain posted on the District's website for a minimum of sixty (60) days.

The District will also provide notice to each parent of a student with a disability who is enrolled in the District. The notice shall include a link where Parents can access the documents electronically, as well as note that a physical copy of the documents will be provided upon request by the Parent. The District may complete this by either U.S. mail or e-mail. The District will use U.S. mail for any parent who does not have an e-mail address known to the District.

The notice for both the website and the parental mailings will include a brief explanation of the changes in the new documents and a designated individual with

contact information that persons may contact if they have any questions or comments about the documents.

Reporting Requirement

- H. Within fifteen (15) days of posting the notice and documents on its website and of communication to the parents as required by paragraph (II)(G) of this Agreement, the District will provide written verification of such to OCR. The verification will include a copy of the posting on the District's website along with a link, the date of the website posting, a copy of the notice and documents that were mailed to the parents, the number of mailings sent to the parents, showing both U.S. mail and e-mail addresses, and the date(s) sent.

III. ENSURING EQUAL ACCESS FOR STUDENTS WITH DISABILITIES

- A. By June 1, 2015, the District will develop a procedure and accompanying processes that ensure compliance with the requirement of nondiscrimination in access and participation in all district programs by students with disabilities. Unless the District prefers a different vehicle, this can be accomplished by either revising existing Board Policy or Administrative Regulation(s), or by creating a new Board Policy and Administrative Regulation.

The District's revised Board Policy, Administrative Regulation(s) or other developed procedure/process will expressly prohibit the District from excluding students from any benefit, aid, service, award or honor, or recommendation for an award or honor, as well as any admissions requirements for extracurricular activities, solely on the basis of the students having a disability and/or receiving services through a Section 504 plan or Individualized Education Program (IEP). The District may set uniform standards for measuring academic achievement for such awards or honors/eligibility requirements for educationally sound purposes if the criteria are objective and well-defined, clearly related to the purpose of the program, and are applied equally to all students without regard to disability. It will further state that students with disabilities will be given an equal opportunity to be considered for selection for any awards or honors, they will be provided an equal opportunity to participate in extracurricular and similar activities, and their parents will be advised of such awards, honors, and extracurricular activities in the same and equal manner as parents of students without disabilities. This provision does not require participation of a student who, even with the benefit of accommodations, could not meet the essential academic or skill requirements necessary for participation or recognition.

The procedure and/or processes will be consistent with the requirements of 34 C.F.R. §§ 104.37(a), 104.4(a), 104.4(b)(1)(i), 104.4(b)(1)(vii) and 28 C.F.R. §§ 35.130(a), 35.130(b)(1)(i), and 35.130(b)(2).

Reporting Requirement

- B. Within ten (10) days of developing the procedure required by paragraph (III)(A) of this Agreement, the District will submit the procedure to OCR for review and approval.
- C. Within fifteen (15) days of OCR's completion of its review and approval of the procedure required by paragraph (III)(A) of this Agreement, the District will disseminate an electronic copy of the procedure along with links to the documents adopted pursuant to paragraph (II)(E) of this Agreement to all District administrators, teachers and employees responsible for providing direct instructional services to students.

The District will also provide notice and a copy of the procedure to each parent of a student with a disability who is enrolled in the District. The District may complete this by either U.S. mail or e-mail.

The notice for the parental mailings will include a brief explanation of the reason(s) for the procedure, how it applies, and a designated individual with contact information that persons may contact if they have any questions or comments about the procedure.

Reporting Requirement

- D. Within ten (10) days of completing the requirements of paragraph (III)(C) of this Agreement, the District will provide a written statement to OCR that verifies that it completed the requirements.

IV. INVESTIGATION AND RESOLUTION OF DISCRIMINATION COMPLAINTS

Reaffirming the District's Commitment to Discrimination Complaint Resolution

- A. By March 30, 2015, the District will create a memorandum or other document that reaffirms the District's obligation to adequately and properly investigate and resolve complaints of discrimination. The document will remind its readers that the District is committed to timely and properly investigating complaints, whether formal or informal, that allege discrimination or harassment based on disability.

The document will state that consistent with 34 C.F.R. § 104.61 and 28 C.F.R. § 35.134, the District is committed to ensuring that those who complain of any discrimination or participate in the investigation of any complaint, including parents and family members as well as its own faculty, administrators, staff, employees, and volunteers, will not in any way be subjected to retaliation of any kind or in any form.

The document will emphasize that oral reports of discrimination and formal written complaints of discrimination shall be investigated and resolved in accordance with the District's revised Uniform Complaint Procedures.

Reporting Requirement

- B. Within ten (10) days of creating the document required by paragraph (IV)(A) of this Agreement, the District will provide a copy of it to OCR for review.

Dissemination of Document Reaffirming District's Commitment

- C. Within fifteen (15) days of OCR completing its review of the document and returning it to the District, the District will work with OCR to incorporate agreed-upon changes prior to disseminating it to District administrators, teachers, and employees responsible for providing direct instructional services to students.

Reporting Requirement

- D. Within ten (10) days of disseminating the document to District administrators, teachers and employees responsible for providing direct instructional services to students as required by paragraph (IV)(C) of this Agreement, the District will provide written verification of the dissemination to OCR along with a copy of the document that was disseminated. The verification will include a description of the manner in which the document was disseminated, the number that was disseminated, and the date(s) on which it was disseminated. Nothing in this Agreement prohibits the transmission of this information electronically.

V. TRAINING

District Wide Training

- A. By August 30, 2015, the District will provide training to District school site principals, school site principal-designees, and administrators on the following topics:
 - (i) Section 504's requirements, as implemented through 34 C.F.R. §§ 104.34(b) & 104.37(a)(2), that the District provide to its students with disabilities extracurricular and nonacademic services in a nondiscriminatory manner consistent with 34 C.F.R. §§ 104.34(b) & 104.37(a)(2). Specifically, the requirement of 34 C.F.R. § 104.34(b) that when providing or arranging for the provision of nonacademic and extracurricular services and activities, the District will ensure that a student with a disability participates with non-disabled persons in such activities and services to the maximum extent appropriate to the needs of the student with a disability in question and the requirement of section 104.37(a)(1) that the District provide nonacademic and extracurricular services

and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities. The documents adopted pursuant to paragraph (II)(E) of this Agreement and the procedure developed pursuant to paragraph (III)(A) of this Agreement will be provided and explained to the attendees.

(ii) The obligations of the District to properly and adequately investigate and resolve complaints of discrimination. The District's UCP will be comprehensively covered. The memorandum or other document required by paragraph (IV)(A) of this Agreement and the District's UCP will be provided and explained to the attendees.

The training will be provided by staff who are knowledgeable about the above-stated topics or by an outside third party with such expertise and will include an opportunity and ability for the attendees to ask questions. The District may also request that OCR provide this training.

Reporting Requirement

B. Within thirty (30) days of completing the training required by paragraph (V)(A) of this Agreement, the District will provide to OCR written verification that the training has taken place. The verification will state the date(s) on which the training occurred, the number of staff who attended on the date(s), and the name of the individual(s) who provided the training and his or her qualifications for providing the training. The District will also provide a copy of the sign-in sheet for the training and all documents provided to the attendees.

Sierra Enterprise Training and Follow Up

C. By April 30, 2015, the District will provide training specific to Sierra Enterprise administrators, teachers and employees who provide direct instruction to Sierra Enterprise students. The topics to be covered at this training shall be those identified in Section V(A)(i). This training may take place at a regularly-scheduled Sierra Enterprise staff meeting, or other independently scheduled training, at the discretion of the District.

D. By April 15, 2015, the District will submit to OCR for review, a document which shall be sent to all parents of sixth grade students attending Sierra Enterprise Elementary School setting forth information concerning the promotion procedures and opportunities for participation in the 2015 Sierra Enterprise Elementary School graduation/promotion ceremony (i.e. speeches, etc.)

E. The District, as a component of the 2015-2016 Sierra Enterprise Elementary School new staff orientation, shall review the District's revised Uniform Complaint

Procedures and shall review the Section 504 requirements that pertain to the District's obligation to provide to its students with disabilities extracurricular and nonacademic services in a nondiscriminatory manner consistent with 34 C.F.R. §§ 104.34(b) & 104.37(a)(2).

Reporting Requirements

- F. Within thirty (30) days of completing the training required by paragraph (V)(C) of this Agreement, the District will provide to OCR written verification that the training has taken place. The verification will state the date(s) on which the training occurred, the number of staff who attended on the date(s), and the name of the individual(s) who provided the training and his or her qualifications for providing the training. The District will also provide a copy of the sign-in sheet for the training and all documents provided to the attendees.
- G. Within thirty (30) days after the 2015 promotion ceremonies at Sierra Enterprise Elementary School, the District will provide to OCR, written verification of the number of students with disabilities who participated in the 2015 Sierra Enterprise sixth grade graduation/promotion ceremony.
- H. During the term of the monitoring, the District will provide to OCR no later than July 1, a summary of oral and written complaints received and investigated consistent with revised District Uniform Complaint Procedures that concern allegations of discrimination based on disability with respect to the provision of extracurricular and nonacademic services to students with disabilities during the prior fiscal year (ending June 30). The information to be provided in the summary contemplated by this paragraph shall be the following:
 - a. The school year in which the allegations were reported;
 - b. Whether the allegations were made orally or through a written complaint consistent with the revised District Uniform Complaint Procedures;
 - c. The age of the District student at issue;
 - d. A general description of the allegations that relate to discrimination in the provision of extracurricular and nonacademic services; and
 - e. Confirmation that investigation was completed and a general description of the resolution reached with the complainant consistent with the revised District Uniform Complaint Procedures.

VI. INDIVIDUAL STUDENT REMEDIES

- A. By December 15, 2014, the District will contact, in writing, the complainant in this matter and offer to her the opportunity for her son to be evaluated, consistent with the requirements of 34 C.F.R. §§ 104.35 to determine whether he is in need of services to compensate him for the exclusion from the sixth grade extracurricular

activities and, specifically, the field trips to NatureBridge and Scandia Family Fun Center, during the 2011-12 school year. A copy of the District's procedural safeguards shall be provided to Student along with the offer to assess. The invitation will inform the complainant that she has thirty (30) days in which to either accept or decline the District's offer and that a failure to respond within the 30 days will be considered the equivalent of a declination of the offer.

- B. If the complainant accepts the District's invitation to conduct an evaluation of her son, the District will, within sixty (60) days, evaluate the student to determine whether he needs any services to compensate him for his non-attendance at the sixth grade extracurricular activities and, specifically, the field trips to NatureBridge and Scandia Family Fun Center, during the 2011-12 school year. In addition to any loss of educational benefits, the evaluation will also consider whether the non-attendance at the extracurricular activities affected areas of development such as peer interaction or social skills and the objectives and goals or areas of concern that are noted in his IEP.

Reporting Requirements

- C. Within forty (40) days of sending the invitation to the parent as required by paragraph (VI)(A) of this Agreement, the District will provide a copy of it to OCR and will inform OCR whether the complainant accepted or declined the offer for an evaluation of her son.
- D. Within fifteen (15) days of completing the evaluation required by paragraph (VI)(B) of this Agreement, the District will provide to OCR a copy of the evaluation or an explanation for the determination reached at the evaluation, including: a copy of all meeting notes; the names and titles of those who attended the meeting or participated in it; the information that the District considered in making its determination and from whom it was obtained; the rationale and basis for the District's determination; and, if applicable, the compensatory services it determined were necessary along with a proposed plan and timeline for providing the services.
- E. If applicable, within fifteen (15) days of OCR's receipt of the District's evaluation and proposed plan, the District will offer any recommended compensatory services to the complainant. The offer will inform the complainant that she has five (5) days in which to either accept or decline the District's offer and that a failure to respond will be considered the equivalent of a declination of the offer. If the complainant accepts the District's offer of compensatory services, the District will immediately begin the services and will have them completed within six (6) months of the complainant's acceptance.

Reporting Requirement

- F. Within thirty (30) days of offering the compensatory services to the complainant and receiving her response to the offer, the District will provide to OCR a copy of the offer that was made along with any written response from the complainant. If services are accepted by the complainant, within ten (10) days of completing the services the District will provide to OCR verification of such.

VII. MONITORING

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 and is in compliance with Section 504, Title II, and their respective implementing regulations at issue in this Resolution Agreement.

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 the regulations implementing Section 504 and Title II at 34 C.F.R. §§ 104.34(b), 104.36, & 104.37(a)(2) and 28 C.F.R. § 35.130, which were at issue in this matter.

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.

By: _____/s/_____
Mark Cerutti, Interim Superintendent

Date: 11/14/2014