

San Carlos School District
Resolution Agreement
OCR No. 09-13-1151

The San Carlos School District (District) agrees, without admitting any violation of law, to the terms of the following Resolution Agreement (Agreement) to resolve the issue 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.

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

A. Unless otherwise agreed in writing, by March 14, 2014, the District will revise its Board Policy (BP) 1312.3, entitled "Uniform Complaint Procedures," and its Administrative Regulation (AR) 1312.3, entitled "Uniform Complaint Procedures," so that they: (i) provide the name and/or title, business address, and business phone number of at least one individual assigned to coordinate efforts to comply with and carry out responsibilities of Section 504 and Title II; (ii) remove the right of an individual who is subject of a complaint to question or otherwise interact with the complainant; (iii) remove the requirement of a written complaint; and (iv) clarify that no moratorium exists for the filing of complaints in a court when the violation is based on federal law.

B. Within fifteen (15) days of the District adopting the revisions required by paragraph (I)(A) above, 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

C. Within thirty (30) days of the District adopting the revisions required by paragraph (I)(A) of this Agreement, the District will provide to OCR a copy of the board minutes or other documentation verifying that the revisions have been adopted, along with a copy of each revised document.

D. Within thirty (30) days of publishing the notice and revised documents on its website as required by paragraph (I)(B) of this Agreement, the District will provide to OCR a statement verifying that the posting has occurred, along with an uniform record locator (URL) at which the posting may be found.

II. DEVELOPMENT AND DISSEMINATION OF MEMORANDUM REGARDING RETALIATION

A. Unless otherwise agreed upon in writing, by February 28, 2014, the District will develop a memorandum or similar guidance document for administrators and staff involved in special education or the provision of services to students with disabilities that provides information on unlawful retaliation against those engaging in civil rights related protected activity, including any District policies that prohibit retaliation, and the procedures available for complaints of retaliation. At a minimum, the memorandum will specifically:

- (i) Explain that Section 504, Title II of the ADA, Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), the Age Discrimination Act of 1975, and their respective implementing regulations, prohibit retaliation against individuals who take action to assert the rights of

parents, students, and others to be free from discrimination based on race, color, national origin, sex, disability or age.

(ii) Emphasize that retaliation against those engaging in protected activities is unlawful, prohibited by District policy, and that employees who engage in such retaliation are subject to sanctions.

(iii) Clarify that protected activity is not limited based on the position or status of the individual engaging in the protected activity and that students, staff, parents, guardians, and third parties can engage in activity that is protected by federal civil rights laws.

(iv) Provide examples of protected activity.

(v) Provide examples of actions that may be considered retaliatory in nature.

B. The District agrees to post the memorandum regarding retaliation required by Section II A of this Agreement on (1) the District's website and (2) at all District locations at which other District policies are posted in order to inform administrators, staff and the public, including parents and students, of such policies. The memorandum will remain posted at these locations for at least six months from the date the OCR approves the memorandum as provided for in this Agreement.

Reporting Requirement

C. Within ten (10) days of developing the memorandum required by paragraphs (II)(A) of this Agreement, the District will submit a draft of the document to OCR for review and approval.

D. Within fifteen (15) days of OCR's completion of its review and approval of the memorandum required by paragraph (II)(A) of this Agreement, the District will provide documentation to OCR establishing that it has:

(i) disseminated a copy of the memorandum to those individuals designated in paragraph (II)(A) of this Agreement either by hard copy or electronic mail;

(ii) posted the memorandum as required by paragraph (II)(B) of this Agreement including a uniform record locator (URL) at which the memorandum may be found.

III. TRAINING

A. Unless otherwise agreed upon in writing, by August 22 2014 the District will provide training to administrators and staff involved in special education or the provision of services to students with disabilities about unlawful retaliation. The training will include discussion of the memorandum developed pursuant to paragraph (II)(A) of this Agreement and will be provided by an individual or outside third party who has sufficient knowledge, experience, or education about unlawful retaliation. The training will also include a sufficient period of time that allows for questions and answers. The District may also request that OCR provide this training.

Reporting Requirement

B. Within thirty (30) days of completing the training required by paragraph (III)(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, a description of the staff and administrators who attended on the date(s), and the name, position, and qualifications of the individual(s) who provided the training. The District will also provide a copy of the sign-in sheet for the training and all documents provided to the attendees.

IV. LETTER TO COMPLAINANT

Unless otherwise agreed upon in writing, by February 28, 2014, the District will send a letter to the complainant in this case, with a copy to OCR, that includes a copy of the memorandum required by paragraph (II) of this Agreement. The letter will: explain that the memorandum will be disseminated to all administrators and staff, and that employees have been or will be provided training on the memorandum by dates provided for in the Resolution Agreement; explain that the memorandum will be posted at all District locations as provided in the Resolution Agreement; and reiterate the right of parents/guardians to tape record IEP meetings so long as notice has been provided to the District at least 24 hours in advance of the meeting.

V. 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.

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. § 104.61 and 28 C.F.R. § 35.134, 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/_____
Dr. Craig Baker, Superintendent

Date: 2/12/14