

**Resolution Agreement**  
West Contra Costa Unified School District  
(Docket Number 09-13-1251)

To resolve the compliance issues identified by the U.S. Department of Education, Office for Civil Rights (OCR), during its investigation of the above-referenced complaint filed pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) and their implementing regulations, the West Contra Costa Unified School District (District), without admitting to any violation of the law, agrees to take the following actions:

I. Guidance and Training on Harassment

- A. The District will draft written guidance to be distributed to all District and school site administrators regarding responding in a prompt and equitable manner to complaints of harassment based on disability, consistent with Administrative Regulation 5145.3, and will conduct in-service training on the guidance. The guidance, to be issued by the District's Title IX Educational Equity Compliance Officer, will include the following information:
1. a statement that the District is responsible under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Amendments Act (ADAA) for responding appropriately to reports of disability-based harassment, even if a formal complaint is not filed;
  2. how to identify disability-based harassment, including peer-to-peer harassment;
  3. a description of how staff and administrators should respond to reports of disability-based harassment, including identification of specific site administrators who should be notified as soon as an incident is reported;
  4. specify that any employee who receives a complaint of disability harassment or discrimination, or becomes aware of discrimination, harassment, intimidation or bullying based on disability, shall immediately report it to the Compliance Officer or principal or vice principal of the relevant school site. If the principal or vice principal receives such a report, they shall immediately inform the Compliance Officer so that the District may ensure it provides an appropriate response to the incident;
  5. the steps the District will take in response to harassing behavior, including actions to ensure that the offending student is, at minimum, counseled about the seriousness of the offense and, where applicable, progressive disciplinary steps are taken;
  6. a statement that students and parents must be notified of the steps the District is taking in response to the reported incident, and guidance on how and when the notification should be provided; and,

7. the requirement that students and parents must be notified of their right to file a formal complaint and be provided a copy of the procedures pursuant to Administrative Regulation 5145.3.
- B. The District will provide OCR with a draft of the guidance described in I.A. above by July 31, 2014. Within 15 days of OCR's approval, the District will provide OCR with documentation that it has distributed the guidance to all site administrators.
- C. On or before October 31, 2014, the District will provide OCR with documentation that it has conducted its 2013-2014 annual training for all site administrators on the guidance.

## II. Training

- A. The District will conduct in-service training on its policies and procedures for providing a free, appropriate public education to students with disabilities and specifically with regard to the process for identification, referral and assessment of students suspected of having a disability. The training will be provided to principals and vice principals, Section 504 coordinators, counselors, nurses, psychologists, and appropriate special education staff.
- B. The training will be conducted by an individual with experience and expertise in Individuals with Disabilities Education Act (IDEA)/Section 504/Title II requirements for serving students with disabilities. The training will cover the following:
  1. the District and school responsibilities generally for providing a free appropriate public education (FAPE) to students with disabilities;
  2. the definition of an individual with a disability under the IDEA and Section 504;
  3. the District's policies and procedures for identification, referral and evaluation of students with and suspected of having a disability;
  4. the type of academic and/or behavioral concerns that may indicate when such an evaluation is needed, and examples of circumstances where evaluation may be appropriate;
  5. factors to consider when determining when an IDEA or Section 504 evaluation should be conducted;
  6. how the evaluation and IEP/504 process is conducted including required timelines, and the responsibilities of administrators and staff during the process;
  7. the full range of services that can be provided under IDEA and Section 504 including special education and related aids and services; and,

8. the procedural rights of parents and guardians.

C. By October 31, 2014, the District will provide documentation to OCR verifying that the appropriate staff members have received the training.

III. Remedies for Individual Student

A. The District will offer, via letter to the Student's parent, to conduct a complete psycho-educational evaluation of the Student, sufficient to correctly and fully assess whether the Student has any emotional disturbance or related area of need not already identified. Within 10 days of the date of this agreement, the District will provide documentation to OCR verifying this offer, and providing a release to the parent for the District to conduct the necessary social emotional testing, including to obtain current relevant information about the Student from the Student's current district of residence.

B. If the evaluation offer is accepted and the parent signs a release for social emotional testing, within 60 days of the start of the 2014-2015 school year, the District will complete the assessment and offer to meet for an IEP or other multidisciplinary team with the Student's current District of residence and parent to review the results of the assessment.

C. If the assessment shows that the Student has an emotional disturbance or related area of need not already identified, the District, in cooperation with the Student's current district of residence and SELPA, will offer to provide compensatory education services for academic deficits incurred during the period in which the Student's emotional disabilities were not identified. The District will work with the IEP team to determine and document in an addendum to the Student's IEP the type and amount of compensatory services that will be provided, and how they will be provided.

D. The District will provide OCR with documentation of its offer to meet with the IEP team and related efforts, and the IEP team determination, including the plan for providing compensatory services, within 10 days of the IEP team meeting, and will begin providing the services within 10 days after review and approval by OCR. The plan will include a schedule for providing the services and an anticipated, reasonable, projected completion date for the services. If the District makes a good faith effort to deliver the services according to the schedule, the District will not be required to provide services beyond the anticipated completion date if any such services are not accessed by fault of the Student or Complainant. The District will provide OCR with documentation of the delivery of any such compensatory services within 5 days of the completion of the services.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient 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. Part 104 and 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 the regulation implementing Section 504 and Title II at 34 C.F.R. Part 104 and 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.

\_\_\_\_\_/s/\_\_\_\_\_  
Superintendent or Designee

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06/29/2014  
Date