

Agreement to Resolve
California Department of Education
OCR Case No. 09-14-1236

CDE contracts with the Department of General Services, Office of Administrative Hearings to provide special education mediation and hearing services as required by the Individuals with Disabilities Education Act (IDEA). To resolve the allegations raised in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, and without admitting to any violation of the law, the California Department of Education (CDE) agrees to the following:

- I. CDE will adopt a policy requiring the Department of General Services Office of Administrative Hearings (a) to conduct special education hearings and mediations in facilities accessible to individuals with disabilities, (b) the provision of reasonable accommodations to students, parents/guardians, and other hearing and mediation participants with disabilities, when necessary to ensure equal access, and (c) any entity with which CDE contracts to provide special education hearing and mediation services have policies and procedures that ensure proceedings are conducted in accessible facilities and the provision of reasonable accommodations.
- II. CDE will immediately and on an ongoing basis inform the OAH, and any subsequent entity with which CDE contracts to handle special education due process matters, of its obligations to conduct special education hearings and mediations in accessible facilities and provide reasonable accommodations. CDE will require OAH to meet these obligations while the policies and procedures referenced in Items III.a. through III.c., below, are being developed.
- III. CDE will ensure the policies, procedures, practices, and notices of OAH are revised, as needed, to ensure that hearings and mediations are conducted in accessible facilities and that reasonable accommodations are provided. CDE will require OAH to:
 - a. Adopt a policy that any facility where it (OAH) conducts special education hearings or mediations must be accessible to individuals with disabilities, and a procedure for ensuring this requirement is met. The procedure will include a means of (i) communicating the requirement to school districts and other entities that provide facilities, prior to the scheduling of proceedings, and (ii) notifying proceeding participants in advance that the facility will be accessible, and how OAH will respond if they (the participants) arrive at a proceeding and find the facility is not accessible.
 - b. Adopt a procedure for students, parents/guardians, and other special education hearing and mediation participants with disabilities to request accommodations, and for OAH to

evaluate and respond to such requests and provide reasonable accommodations. The procedure will include a means of notifying participants in advance of the availability of accommodations and how to request them, and how OAH will respond if they arrive at a proceeding and find that previously requested accommodations are not available.

- c. Adopt a procedure for resolving complaints alleging failure to conduct proceedings in accessible facilities or provide reasonable accommodations. The procedure will include review and monitoring of OAH's investigations, findings and corrective actions by CDE, consistent with Section J (Procedures for Complaints Against OAH) of the Standard Agreement between CDE and OAH dated June 20, 2014 (Standard Agreement); and
- d. Inform the public of OAH's obligation to conduct special education proceedings in accessible facilities and provide reasonable accommodations, the process for requesting reasonable accommodations, and how to obtain the policies and procedures referred to in Items III.a. through III.c., above, including: (a) updating the OAH Special Education Division web site to include this information and links to any related forms; (b) including the information and forms in OAH printed literature, such as its consumer brochure and Special Education Due Process Hearing and Mediation Manual; and (c) including instructions for requesting accommodations in the notice of the date and time of hearings/mediations sent to parents/guardians and districts.

CDE will renegotiate the terms of the OAH Special Education Due Process Standard Agreement, as appropriate, to ensure the terms of this OCR/CDE Agreement are met.

IV. OCR will monitor CDE's implementation of this OCR/CDE Agreement. Accordingly:

- a. Within seven days of signing this OCR/CDE Agreement, CDE will confirm to OCR that it notified responsible individuals within OAH of the obligation to conduct hearings and mediations in accessible facilities and to provide reasonable accommodations, and also to provide to OCR the names and positions of the individuals notified.
- b. If a new Standard Agreement with OAH is required for the current year, CDE will provide OCR with a copy of the new OAH Agreement.
- c. By September 30, 2014, CDE will provide OCR with the draft policy referenced in Item I for review and comment. Within 30 days of OCR's approval of the policy, CDE will provide OCR with evidence that CDE has adopted it.
- d. By September 30, 2014, CDE will provide OCR with the draft policies and procedures referenced in Items III.a through III.c. for review and comment. Within 30 days of OCR's approval of the policies and procedures, CDE will provide OCR with evidence that OAH has adopted the policies and procedures, and provided the notices required by Item II.d.

CDE understands that OCR will not close the monitoring of this OCR/CDE Agreement until OCR determines that CDE has fulfilled its terms and is in compliance with the regulations implementing Section 504, Title II, and their implementing regulations. CDE understands that

OCR will close the monitoring of this OCR/CDE Agreement after CDE has provided documentation that it has complied. CDE understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this OCR/CDE Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give CDE written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

CDE understands that by signing this OCR/CDE Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this OCR/CDE Agreement. Further, CDE understands that during the monitoring of this OCR/CDE Agreement, if necessary, OCR may visit CDE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether CDE has fulfilled the terms of this OCR/CDE Agreement and is in compliance with the regulations implementing Section 504 and Title II.

California Department of Education

By: _____/s/_____
Sharon Felix-Rochon, Director
Office of Equal Opportunity

Date: 08/22/2104