

Resolution Agreement
Tracy Unified School District
U.S. Department of Education, Office for Civil Rights
Docket Number 09-14-1375

To resolve the above-referenced complaint with the U.S. Department of Education, Office for Civil Rights (OCR), 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 Tracy Unified School District (District), without admitting to any violation of the law, agrees to take the following actions:

I. Internal Complaints of Discrimination

A. Complaint Procedures:

- i. The District will revise its Uniform Complaint Procedures (UCP) (Board Policy (BP) and Administrative Regulation (AR) 1312.3) to clarify that allegations of retaliation by District including any District or site staff, against parents, staff, students, or others, for engaging in protected activity (advocacy on behalf of the rights of students to equal treatment based on race, color, national origin, sex, disability, and any other protected areas) shall also be processed under the UCP.
- ii. The District will revise its UCP (BP and AR 1312.3), as well as its procedures for complaints against employees as found in BP and AR 4115.5, to clarify that complaints alleging discrimination against students based on race, color, national origin, sex, or disability, including retaliation, shall be processed under the District's UCP.

The District will provide OCR with a draft of the revisions under I(A)(i) and (ii) by February 20, 2015. Within 60 days of approval from OCR, the District will provide OCR with documentation that it has adopted the revised policies.

B. Training:

- i. The District will train appropriate District and site administrators on promptly and equitably responding to complaints of discrimination under the District's UCP, including the revisions adopted pursuant to provision I(A) above.

The District will provide OCR with documentation of the training described above, including an agenda, all handouts, and sign-in sheets, by April 10, 2015.

C. Internal Complaint

- i. The District will complete its investigation of the Complainant's allegations that the District retaliated against her because she advocated on behalf of her son's rights as a student with a disability and for his IEP. Specifically, the District will determine

whether School staff retaliated against the Complainant by (a) refusing to allow her to walk her son to class; (b) contacting the school resource officer (SRO) on or about May XX, 2014, regarding the Complainant¹; and (c) restricting the Complainant's ability to visit the School for 14 days. The District will also determine whether the Student's March XX, 2014, IEP was implemented.

- ii. The District will issue written findings based on completing its investigation of the alleged retaliation and failure to implement the Student's IEP. These findings will explain whether the actions outlined above were taken in retaliation for the Complainant's IEP related advocacy on behalf of her son, including whether any alternative reasons given for these actions provided a legitimate nondiscriminatory basis, or whether any such explanations were simply a pretext for discrimination/retaliation.

Within 30 days of the date of this Agreement, the District will provide OCR with a draft of its written findings. Within 10 days of review by OCR, the District will issue the findings.

II. Free, Appropriate, Public Education – Evaluation & Placement

A. Written Memorandum:

- i. The District will issue a written memorandum to all appropriate District and site staff explaining the District's responsibilities to conduct assessments of students suspected of a disability, including that:
 - a. all students suspected of having a disability shall be assessed;
 - b. whether to assess a student shall be based on the individual student and the factors related to that individual student that provide or do not provide a reason to suspect the student has a disability, and any practices that delay the evaluation of a student suspected of a disability must be eliminated;
 - c. if there is reason to suspect a student has a disability, assessments may not be delayed for any period of time, such as four to eight weeks, while other interventions are attempted (e.g. Student Study Team interventions or Response to Intervention), although such interventions may be attempted concurrent with an assessment;
 - d. anytime a parent/guardian requests a special education assessment and the District determines an assessment is not appropriate, the District will provide appropriate procedural safeguards to the parent/guardian,

¹ In investigating whether contacting the SRO was retaliatory, the District's investigation will include an examination of the District's normal use of SROs to communicate with parents as compared to this situation, as well as whether this use of an SRO was intimidating and therefore retaliatory.

including information on the parent/guardian’s right to appeal such a decision, and the basis for the denial.

Within 60 days of the date of this Agreement, the District will provide OCR with a draft of this written memorandum. Within 20 days of approval from OCR, the District will distribute the memorandum.

B. Student’s IEP:

- i. The District will hold an IEP meeting for the Student and determine whether any compensatory educational services are appropriate for the Student, to make up for any lost educational progress caused by the delay in his assessment during the 2013-2014 school year, or a failure to implement any parts of the Student’s March XX, 2014 IEP. If the team determines any compensatory services are appropriate, the team will develop a calendar for delivering such services.

The District will hold the above described IEP meeting by March 1, 2015, and will provide OCR with documentation of the results within 15 days of the meeting.

III. Monitoring

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/_____
Director of Student Services
Tracy Unified School District

_____01/28/2015_____
Date