

Oceanside Unified School District
Office for Civil Rights, U.S. Department of Education
OCR case number 09-14-1441

RESOLUTION AGREEMENT

The Oceanside Unified School District (District) agrees to implement this Resolution Agreement without admitting to any violation of law to voluntarily resolve the issue in the above-referenced complaint. The complaint was investigated by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, and their implementing regulations.

The District readmitted the Student to District schools effective April XX, 2015, which date was based on the date of Complainant's request for readmission. The Student resumed attending District schools on that date.

I. Assessment and Educational Services to be provided to the Student

- A. The District will complete a comprehensive psychoeducational evaluation of the Student to assess whether she has disabilities and whether she needs special education and/or related services. The evaluation will consider all areas of suspected disability including emotional and behavioral areas. The evaluation will be completed by April 30, 2015.
- B. After the District has completed the assessment, the District will convene an Individualized Education Program (IEP) meeting by May 31, 2015. The IEP team will review and consider all available data and information. If the Student is found eligible for services under the Individuals with Disabilities Education Act (IDEA), the team will develop an IEP that specifies special education and related services needed to meet her individual educational needs. The IEP developed by May 31, 2015 will be fully implemented promptly and regularly reviewed.
- C. If the Student does not qualify for services under IDEA, immediately following the IEP meeting or at a separate meeting, within five days the District will convene a group of appropriate knowledgeable persons and hold a Section 504 team meeting to consider all the evaluation data gathered pursuant to paragraph I.A and any other relevant data. The team will determine whether the Student has disabilities and the services the Student needs.

- D. The District will offer the Student as compensatory education a total of 128 hours of individualized instruction, 98 hours of which will be offered to occur at specified times from July 1-28, 2015 at North County Academy, which is the educational institution requested by Complainant, and 30 hours of which will be offered to occur at a time and location to be arranged by the parent and teacher, which may be the Student's home, between July 1, 2015 and August 7, 2015, through a District credentialed teacher using curriculum that she is using or has used at North County Academy. Once the Student completed the individualized instruction described above in this paragraph, the District will conduct a District academic assessment of the Student to determine if she has atypical academic deficits for a student who is entering eighth grade. By September 14, 2015, the District will convene an IEP meeting to review the assessment. If the IEP team determines that the Student is demonstrating atypical academic deficits for a student entering eighth grade, then the IEP team will determine what additional hours of compensatory education services she may need during the 2015-16 school year. The IEP team will also determine how and where the Student will receive the services
- E. The District will expunge from Student's records the expulsion that arose from her January 2014 misconduct of brandishing a knife at another student.
- F. Monitoring and Reporting

The District will provide the following information to OCR:

- (1) By June 30, 2015, copies of all evaluation/assessments, IEPs and Section 504 plans that were completed pursuant to section I.A through I.C.
- (2) By June 30, 2015, documentation of the District's offer of compensatory and other services to occur during the summer of 2015 pursuant to section I.D.
- (3) By September 14, 2015, copies of all assessments and IEPs that were completed pursuant to section I.D. If the IEP team determines that the Student should receive additional compensatory education during the 2015-16 school year, the District will provide OCR with information as to the specific number of hours and how and where the services will be provided to the Student.
- (4) By August 30, 2015, documentation showing District action to expunge from the Student's records the expulsion that arose from her January 2014 misconduct.

II. Section 504 Procedures and Procedural Safeguards

A. The District will revise its Section 504 Procedures to include information as to how a parent can request an impartial Section 504 due process hearing to appeal a manifestation determination. The Section 504 Procedures will specify how a parent/guardian can request an expedited Section 504 hearing to appeal a manifestation determination and the timeframe for such a hearing. The Section 504 Procedure will also be revised to state that a parent/guardian cannot be required to participate in an administrative review prior to exercising his/her rights to a Section 504 due process hearing. In addition, the Section 504 Procedures will state that during the pendency of the pre-expulsion disciplinary removal, the District must continue to provide a free appropriate public education to the student.

B. Monitoring and Reporting

(1) The Director of Student Services has been identified by the District to serve as the coordinator and individual responsible for implementation of this agreement.

(2) The District will provide OCR with a draft of the Section 504 Procedures by July 31, 2015. After OCR approves the draft, the District will adopt and publish the policies and procedures within 60 days. The District also will post the policies and procedures on its website and provide a copy of it to parents and guardians whose children currently have a Section 504 Plan.

(3) The District will send a memorandum to all administrators and staff members informing them of the revisions made to the Section 504 Procedures. The coordinator will provide a copy of the memorandum to OCR within five (5) days of its distribution.

III. Other Obligations

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the District understands that during the monitoring of this Agreement, OCR may visit the District, interview staff and students 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 statutes and regulations that were at issue in this case.

The District understands that OCR will not close the monitoring of this Agreement until such time that OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the statutes and regulations that 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 or 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/_____, July 1, 2015