

**Resolution Agreement**  
Folsom Cordova Unified School District  
Docket Number 09-14-1444

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 Folsom Cordova Unified School District (District), without admitting to any violation of the law, agrees to take the following actions:

**I. Free, Appropriate, Public Education – Evaluation & Placement**

**A. Policies and Procedures:**

- i. By October 31, 2015, the District will review its Response to Intervention (“RTI”) policies and procedures under Board Policy 6120 concerning the use of RTI to ensure that RTI is not used as a substitute for evaluation and placement procedures under the IDEA and Section 504.

By October 31, 2015, the District will provide OCR with a draft of proposed revisions to BP 6120 or, if no revisions are necessary, a detailed summary explaining how BP 6120 meets the above legal standards as drafted. Within one hundred twenty (120) days after receipt of approval from OCR to any proposed revisions to BP 6120, the District will provide OCR with documentation that it has adopted the revised policy.

- ii. By October 31, 2015, the District will review Administrative Regulation 6164.6, “Identification and Evaluation under Section 504”, and Administrative Regulation 6164.4, “Identification and Evaluation of Individuals for Special Education”, to ensure that the regulations comply with the legal standards under 34 C.F.R. §§ 104.33-104.36; the ADA Amendments Act of 2008; and the guidance set forth in the January 19, 2012 Dear Colleague Letter from the U.S. Department of Education Assistant Secretary for Civil Rights and its attached FAQs.

By October 31, 2015, the District will provide OCR with a draft of proposed revisions to AR 6164.6 and AR 6164.4 or, if no revisions are necessary, a detailed summary explaining how these administrative regulations meet the above legal standards as drafted. Within one hundred twenty (120) days after receipt of approval from OCR of any proposed revisions to AR 6164.6 and AR 6164.4, the District will provide OCR with documentation that it has adopted the revised administrative regulations.

- iii. If any revisions are made to BP 6120, AR 6164.6 or AR 6164.4, and following OCR's review and approval of the District's revisions to such policies, the District will update its Section 504 Handbook and Forms to ensure that these materials are consistent with any revisions made under I(A)(i) and I(A)(ii) of this Agreement.

Within one hundred twenty (120) days after receipt of approval from OCR of any proposed revisions to BP 6120, AR 6164.6, and AR 6164.4, the District will provide OCR with a draft of proposed revisions to its 504 Handbook and Forms. Within one hundred twenty (120) days after receipt of approval from OCR, the District will distribute the revised Section 504 Handbook and Forms to each school site with instructions to cease using prior versions. Within two (2) school weeks after the District's distribution of the Section 504 Handbook and Forms, the District will provide OCR with evidence sufficient to demonstrate that they have been distributed in accordance with this Agreement.

B. Written Memorandum:

- i. In accordance with any revisions to Board Policies, Administrative Regulations, and 504 Handbooks and Forms in Section I.A. of this Agreement, the District will draft a written memorandum to all appropriate District and school site staff explaining the District's responsibilities to conduct assessments of students suspected of having a disability, including that:
  - a. all students suspected of having a disability will be offered an assessment and will be assessed in accordance with parent consent;
  - b. whether a student should be offered an assessment will be based on whether there is a reason to suspect that the individual student has a disability;
  - c. the evaluation of a student suspected of having a disability may not be delayed for any reason, including but not limited to delaying the assessment while other interventions are attempted (e.g. Student Study Team interventions or RTI); however, such interventions may be attempted concurrent with an assessment;
  - d. any time a parent/guardian requests a special education assessment and the District determines an assessment is not appropriate, the District will provide prior written notice denying the assessment along with a copy of their procedural safeguards to the parent/guardian, including the basis for the denial and information on the parent/guardian's right to appeal.

- ii. Within one hundred twenty (120) days after receipt of approval from OCR of any proposed revisions to BP 6120, AR 6164.6, AR 6164.4, and the Section 504 Handbook and Forms, the District will provide OCR with a draft of the written memorandum in Section I.B of this Agreement. Within one hundred twenty (120) days after receipt of approval from OCR, the District will distribute the memorandum to all appropriate District and school site staff. Within two (2) weeks after distribution of the memorandum, the District will provide OCR with evidence of the distribution of the memorandum.

C. Compensatory Education:

- i. By August 31, 2015, the District will give written notice to the Student's parent/guardian of their right to request that her IEP team discuss whether the Student should be provided with compensatory and/or remedial services as a result of the District's alleged failure to provide appropriate regular and/or special education or related services during the 2013-2014 school year. If the parent/guardian makes such a request, then the Student's IEP team, including the parent/guardian, will include in Student's annual IEP meeting to be convened by September 30, 2015, a discussion about whether the Student is entitled to compensatory and/or remedial services as the result of the District's alleged failure to provide appropriate regular and/or special education and related services during the 2013-2014 school year. If the IEP team determines that compensatory and/or remedial services are required, then the IEP team will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond June 30, 2016. At the IEP meeting, the District will provide the Student's parent/guardian notice of their procedural safeguards including the right to challenge the IEP team's determination through an impartial due process hearing.
- ii. Within two (2) weeks after the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the IEP team's decision. The documentation submitted shall include documentation showing the participants in the IEP meeting, an explanation of the decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Student.
- iii. If any compensatory and/or remedial services will be provided to Student, then by July 31, 2016, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided to Student (if any), a description of what was provided, and the name(s) of the service provider(s).

II. Training

A. Child Find:

- i. Within one hundred twenty (120) days after receipt of approval from OCR of any proposed revisions to BP 6120, AR 6164.6, AR 6164.4, and the Section 504 Handbook and Forms, the District will train District staff, including site administrators, special education teachers, school psychologists, and school counselors, on the requirements for identification and evaluation of individuals for special education and the District's Section 504 policies and procedures, including any revisions made to such policies and procedures pursuant to Section I.A of this Agreement. At the District's request, OCR may provide training at no cost to the District. The training will cover the following subject areas:
  - a. The District's responsibilities for providing a free appropriate public education (FAPE) to students with disabilities under IDEA and Section 504;
  - b. The District's Section 504 policies and procedures (AR 6164.6), for the identification, evaluation and placement process, and procedural safeguards for parents;
  - c. The definition of an individual with a disability and the definition of major life activities consistent with Section 504 and Americans with Disabilities Amendments Act.
  - d. The District's responsibility for conducting an evaluation of a student under Section 504 if it believes or has reason to believe that the student needs or may need special education or related services due to a disability; the academic and behavioral indicators for determining when such an evaluation is needed, and examples, pertaining to both physical and emotional/psychological disabilities, of circumstances where evaluation may be needed; and
  - e. The full range of services that can be provided under Section 504 including special education and related aids and services.
- ii. Within two (2) weeks after the training in Section II.A.i. is completed, the District will provide OCR with documentation of the training described above, including an agenda, all handouts, and sign-in sheets.

B. Harassment:

- i. Within one hundred twenty (120) days of this Agreement, the District will consult with a trainer, who may be a District employee or contractor, regarding the District's training and professional development plan for Folsom Middle School and Vista Del Lago High School for students, staff, and

administrators regarding disability harassment. The District will submit to OCR the name and credentials of the trainer and the training and professional development plan describing the scope, frequency, and subject matter of the training(s) to be provided during the 2015-2016 school year. OCR will review and provide approval or feedback for changes to the training and professional development plan within 10 days.

**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/\_\_\_\_\_  
Superintendent  
Folsom Cordova Unified School District

08/19/2015  
Date