

Resolution Agreement Reached During an Investigation

San Jose Unified School District

09-15-1139

In order to resolve the issues raised in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR), and without admitting any violation of law, the San Jose Unified School District agrees to implement the following actions:

I. Individualized Education Program (IEP) Meeting

- a. By April 3, 2015, the District will extend a written offer to the Complainants to convene an IEP meeting to specifically consider whether the Student should participate in an after school sports program at XXXXXXXX High School as a part of his free, appropriate, public education (FAPE).
- b. If the Complainants accept the offer, the District will convene the IEP meeting and determine whether the Student needs to participate in an after school sports program as a matter of FAPE.
- c. If the IEP team determines that he does, his IEP will: be amended accordingly; list any disability-related supplemental aids, supports, modifications, or services that the IEP team decides are appropriate; and be fully implemented.
- d. If the IEP team determines that he does not need to participate in an after school sports program as a matter of FAPE, the District will provide the Complainants with notice of applicable procedural safeguards.

II. Equal Opportunity to Participate in After School Sports

- a. By April 3, 2015, the District will notify the Complainants, in writing, of the process that they should follow if they want the Student to participate in an after school sports program at XXXXXXXX High School, even if such participation is not required by his IEP. The District will confirm that it will provide the Student with disability-related supplemental aids, supports, modifications, or services necessary for the Student to have an equal opportunity to participate.
- b. If the Complainants inform the District that they want the Student to participate in an after school sports program, the District and the Complainants will jointly develop a memorandum of understanding (MOU) to specifically address the Student's participation in the program. The MOU will list the supplemental aids, supports, modifications, or services that will be provided by the District in order for the Student to have an equal opportunity to participate in accordance with the law.

- c. If the District and the Complainants are unable to agree upon on the supplemental aids, supports, modifications, or services to be provided by the District, the District will notify the Complainants of the complaint procedure they may use to challenge the District's determination.
- d. The District will provide a copy of the MOU to the Complainants and will ensure that the MOU is fully implemented.

III. Reporting

- a. By April 3, 2015, the District will provide OCR a copy of the written offer to convene an IEP meeting, and of the written notice regarding participation in after school sports, as required by I.a. and II.a. of this Agreement.
- b. By April 10, 2015, the District will inform OCR whether the Complainants have accepted the offer to convene the IEP meeting. If so, the District will provide OCR a copy of the IEP, and notice of procedural safeguards, if any, by May 29, 2015.
- c. By April 10, 2015, the District will inform OCR whether the Complainants have expressed an interest in the Student participating in after school sports even if participation is not required by his IEP. If so, the District will provide OCR a copy of the MOU, and notice of the available complaint procedure, if any, by May 29, 2015.
- d. OCR understands that the District is a member of the California Interscholastic Federation (CIF) and that any actions required under this Agreement related to interscholastic athletics may be subject to additional CIF regulations, policies, and rules. In the event that these obligations should interfere with the District's ability to perform under the Agreement, OCR agrees to consider any reasonable requests to modify the terms of the Agreement, including with respect to any timelines concerning the District's performance.

IV. Monitoring

- a. The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 of the Rehabilitation Act of 1973, at 34 C.F.R. §§104.33 and 104.37; and Title II of the Americans with Disabilities Act of 1990, at 28 C.F.R. §§35.103(a), 35.130(b)(1)(ii) and (iii), and 35.130(b)(7), which were at issue in this case.
- b. 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, at 34 C.F.R. §§104.33 and 104.37; and Title II, at 28 C.F.R. §§35.103(a), 35.130(b)(1)(ii) and (iii), and 35.130(b)(7), which were at issue in this case.

- c. 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/_____
Dr. Vincent Matthews, Superintendent

Date