

Monterey Bay Charter School  
Resolution Agreement  
OCR No. 09-15-1514

Monterey Bay Charter School (School) agrees, without admitting to any violation of the law, to the terms of the following Resolution Agreement (Agreement) to resolve the findings by and compliance concerns of the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008 (Title II), in the above-referenced case.

**I. NOTICE OF NONDISCRIMINATION, COORDINATOR, AND RETALIATION POLICIES AND PROCEDURES**

- A. Within 60 days of signing this Agreement, the School will create, and provide to OCR for review and approval, a combined notice of nondiscrimination consistent with the requirements of Section 504 and Title II and the other federal civil rights laws over which OCR has jurisdiction, and their respective implementing regulations. If it has not done so already, the School will identify a Title II/Section 504 Coordinator (Coordinator) and ensure that the contact information for such coordinator is identified in notice and grievance procedures and that the Coordinator has received appropriate training regarding the roles and responsibilities for coordinating investigations and ensuring implementation of Title II and Section 504.

By the same date, the School will review and, as necessary, create or revise, and provide to OCR for review and approval, its grievance policy and procedure and its policy that governs the prohibition against retaliation consistent with Section 504, Title II, and their respective implementing regulations. The School will ensure that any retaliation policy advises individuals that it is unlawful to retaliate against any person because the person has engaged in activities protected by Section 504 and Title II, including: the filing of a complaint alleging disability discrimination; participating in an investigation or hearing procedure of a discrimination complaint; opposing actions that are discriminatory; or, engaging in advocacy on behalf of an individual with a disability. The School will also ensure that the policy is clear that the prohibition against retaliation applies to any individual, including parents/guardians, teachers, staff, administrators, students, or any other person who engages in protected activity and it will also provide information about the School's grievance procedure for complaints of retaliation.

- B. Within 15 days of OCR's approval of the notice of nondiscrimination, grievance policy and procedure, and retaliation policy, the School will formally adopt and implement them.
- C. Within 15 days of the School's adoption and implementation of the notice and policies and procedures, the School will: publish them on its website and at all locations where other items of general interest are posted in order to be seen by employees, students,

parents/guardians, or members of the public; distribute them to its faculty, staff, and administrators, and all parents/guardians of students enrolled in the School; and, will develop a process for similar annual distribution.

### **Reporting Requirements**

- D. Within 15 days of the School's adoption and implementation of the notice and policies and procedures as required by paragraph I(B) of this Agreement, the School will provide to OCR documentation showing that they have been adopted and implemented.
- E. Within fifteen 15 days of the School's publication and dissemination of the notice and policies and procedures as required by paragraph I(C) of this Agreement, the School will provide documentation of the publication and dissemination, including a URL at which the notice and policies and procedures may be found on the School's website, a statement identifying the locations at which the documents have been posted, and a statement detailing the distribution of the documents to faculty, staff, and administrators and parents/guardians of students enrolled in the School.
- F. Within 15 days of the School's identification of the Coordinator, the School will provide documentation to OCR of the proposed training that will be provided to the Coordinator for OCR review and approval. Within 15 days of the School's approval of the proposed training, the School will provided documentation to OCR that the training has been provided.

## **II. DEVELOPMENT AND DISSEMINATION OF MEMORANDUM REGARDING RETALIATION AND RELATED TRAINING**

- A. Within 90 days of the execution of this Agreement, the School will create, and provide to OCR for review and approval, a memorandum or similar guidance document for administrators and staff involved in special education or the provision of services to students with disabilities that provides information about the School's grievance policies and procedures, the contact information for the Coordinator, and unlawful retaliation against those engaging in activity protected by Section 504, Title II, and their implementing regulations (nondiscrimination and retaliation memorandum), including:
  - (i) Explaining that Section 504, Title II, and their respective implementing regulations, as well as School policy, prohibit retaliation against individuals who engage in protected activity covered by their provisions, including the activities of filing a complaint or grievance of disability discrimination or participating in the investigation and resolution of such a complaint, opposing discriminatory practices and actions of others, and advocating for the rights of those with disabilities.
  - (ii) Clarifying that protected activity is not limited based on the position or status of the individual engaging in the protected activity and that students, staff, parents/guardians, and third parties can engage in activity that is protected by Section 504 and Title II.

- (iii) Providing examples of protected activity that may be undertaken by parents/guardians, teachers, staff, and students.
  - (iv) Providing examples of actions that may be considered retaliatory in nature with consideration given to matters adjudicated by the federal or state courts, the U.S. Department of Justice, OCR, or any other administrative agency or judicial body with jurisdiction over retaliation complaints arising under Section 504 or Title II.
  - (v) Providing the name or title along with the business contact information for an individual who may be contacted for further information about retaliation or for assistance in filing a complaint or grievance alleging retaliation.
- B. Within 15 days of OCR's approval of the nondiscrimination and retaliation memorandum, the School will distribute the memorandum to its administrators and staff involved in special education or the provision of services to students with disabilities.
- C. Within 30 days of OCR's approval of the nondiscrimination and retaliation memorandum, the School will provide training on the content of the memorandum to its administrators and staff involved in special education or the provision of services to students with disabilities. The training will be provided by an individual with sufficient knowledge or expertise in the subject matter or, in the alternative, the School may request that OCR provide the training.

### **Reporting Requirements**

- D. Within 15 days of distributing the nondiscrimination and retaliation memorandum as required by paragraph II(B) of this Agreement, the School will provide to OCR documentation of the distribution including a list of the names or titles of those individuals to whom the memorandum was given.
- E. Within 15 days of completing the training required by paragraph II(C) of this Agreement, the School will provide OCR with documentation that the training occurred. The documentation will provide the date(s) on which the training occurred, a copy of the sign-in sheet for the training, the name, position, and qualifications of the individual(s) who provided the training, and a copy of any materials provided to the attendees at the training.

### **III. LETTER TO EMPLOYER**

- A. Within 30 days of signing this Agreement, the School will provide to OCR for review and approval a letter that will be addressed to five individuals at the father complainant's XXXXXXXX XXXXXXXX (who have previously been identified to the School by OCR) that includes the following content:

- (i) the communications from the School regarding the father and his involvement with his children's education should not have occurred and were improper;
  - (ii) the School did not and does not have any basis to complain about the father or any of his actions or communications with the School or his involvement with his children's education;
  - (iii) to the extent any complaint or grievance existed or exists against the father because of the School's communications, the School withdraws any such complaint or grievance; and,
  - (iv) The School apologizes for any unwarranted negative inferences about the father's character, actions, or behavior that may have resulted from its communications.
- B. Within 15 days of OCR's approval of the letter, the School will sign the letter and, thereafter, send the letter to each of the five individuals by certified mail with return receipt requested.

#### **Reporting Requirements**

- C. Within 15 days of sending the letter to each individual as required by paragraph III(B) of this Agreement, the School will provide to OCR a copy of the envelope addressed to each individual showing the certified mail number on it and a copy of the corresponding return receipt.

#### **IV. REIMBURSEMENT OF EDUCATIONAL EXPENSES**

- A. Within 30 days of signing this Agreement, the School will send to the complainants a flat payment of \$8,530.76 for expenses they have incurred for providing special education and related services to their children for the 2015-16 school year.

#### **Reporting Requirements**

- A. Within 30 days of completing the actions required by paragraph IV.A of this Agreement, the School will provide to OCR documentation of the payment made to the complainants.

#### **V. MONITORING**

The School understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the School understands that during the monitoring of this Agreement, OCR may visit the School, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the statutes and regulations implementing Section 504 and Title II, which were at issue in this matter.

The School understands that OCR will not close the monitoring of this Agreement until such time that OCR determines that the School has fulfilled the terms of this Agreement and is in compliance with the statutes and regulations at issue in this matter.

The School 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 School written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

By: \_\_\_\_\_/S/\_\_\_\_\_  
Monterey Bay Charter School

Date: 07/21/2016