

Resolution Agreement
Hayward Unified School District
OCR Case Number 09-16-1003

To resolve the concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR), in the above referenced complaint filed under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 et seq., and its implementing regulation, at 28 C.F.R. Part 35, Hayward Unified School District (District), without admitting to any violation of law, agrees to implement the following provisions in this Resolution Agreement (Agreement).

I. Substantive Provisions

- A. By September 16, 2016, after providing proper written notice to the Student's parent(s)/guardian(s), the District will convene a meeting that comports with the procedural requirements of Section 504. The meeting will include Student's parent(s)/guardians(s) and person knowledgeable about the Student and the meaning of the evaluation data and placement options. At the meeting, the team must determine the following:
- i. Sufficient emergency response policies and procedures that address the proper handling and administration of epinephrine in the event of an anaphylactic or other serious food allergy-related reaction, and will specifically identify the District staff responsible for emergency responses.
 - ii. The individuals who will be responsible for administering epinephrine or any other necessary medication to Student, such that there are at least two School staff members with sufficient training and access to the epinephrine at all times Student is on-site or participating at a district-sponsored activity.
 - iii. Whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide appropriate education or related services from April XX, 2015 to May X, 2015. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond January 1, 2017. The District will provide the Student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.
- B. By September 30, 2016, the District will provide comprehensive training on food allergies and the implementation of the Student's Section 504 and related plans to all District staff responsible for the immediate custodial supervision or care of Student. The training should include, among other things, identifying when Student needs to be administered epinephrine.

II. Reporting Requirements

- A. Within fourteen (14) days of the training(s) required by section I.B., the District will submit to OCR documentation confirming that the training occurred, including: the training agenda, the date on which the training was held, and a list of the names and titles of the individuals present at the training.
- B. Within two weeks of the Section 504 meeting required by section I.A., above, the District will provide documentation of the meeting to OCR, and will provide to OCR a description of the District's emergency response policies for the Student as described in section I.A.i, above, and will also provide the names and titles of the individuals identified in section I.A.ii above.
- C. Within two weeks of the decision whether compensatory and/or remedial services are needed as described in section I.A.iii, above, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, the information considered, an explanation for decisions made, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met the requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, and, as applicable, Title II, at 28 C.F.R. 35.160, in making these determinations.
- D. By January 16, 2017, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).

III. Monitoring

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 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 statute(s) and regulations implementing Section 504 of the Rehabilitation Act at 34 C.F.R. §104.33(b)(2), and Title II at 28 C.F.R. §§35.103(a) and 35.130(b)(1)(ii) and (iii) which 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 Section 504 and Title II.

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 sixty (60) calendar days to cure the alleged breach.

_____/S/_____
Authorized Official
Hayward Unified School District

_____07/25/2016_____
Date