

Apple Valley Unified School District
Office for Civil Rights
09-16-1059
Resolution Agreement

The Apple Valley Unified School District (District), without admitting to any violation of law with respect to the issues raised in the complaint, agrees to implement this Resolution Agreement (Agreement) to resolve the issues identified by 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 (Title II) and their implementing regulations in the above-referenced OCR case number.

I. Provide Guidance and Training

- A. The District will issue a guidance memorandum to all Apple Valley High School (School) staff, including but not limited to administrators and teachers, regarding Section 504 and Title II requirements that public school districts provide a free appropriate public education (FAPE) to all students with disabilities in their jurisdictions. The guidance memorandum will state that any plan regarding regular or special education and related aids and services designed to meet the individual needs of students with disabilities is stated with sufficient clarity to ensure that all parties can implement the plan and details the appropriate amount and frequency of services, modifications and/or accommodations. If the individual educational needs of a particular student require a range of amount and/or frequency of services, modifications and/or accommodations, the plan will include the following information: 1) the specific educational reason(s) why a range of amount and/or frequency of services is appropriate; 2) the person designated from the District to determine what amount and/or frequency within the given range is appropriate and/or the process for making such a determination; 3) any factors to be taken into account in reaching this determination.
- B. The District will issue a guidance memorandum to all certificated and classified permanent employees, including, but not limited to, the School football staff, concerning harassment based on disability and responding to complaints of disability discrimination. The guidance memorandum will include the topics listed below:
1. the District's policy prohibiting discrimination and harassment of a student by other students or by District employees based on disability;
 2. the October 2010 "Dear Colleague Letter" issued by OCR, which clarifies the relationship between bullying and discriminatory harassment and how schools should respond;
 3. the types of conduct that could constitute disability-based harassment, such as verbal acts and name-calling, graphic and written statements about a disability or disability-related characteristics or about classroom accommodations, or other conduct that may be physically threatening, harmful or humiliating.

4. an explanation that the Uniform Complaint Procedure is the District's procedure for resolving disability discrimination complaints, a summary of the procedure, a reference to where individuals can locate the full procedure, and the name and contact information of the District level individual responsible for responding to complaints of disability-based discrimination, including harassment;
 5. what an administrator should do if he or she learns of harassment of a student by a peer or by an employee based on disability;
 6. students, parents or guardians who report disability discrimination, including harassment, must be notified that they can address their complaints through the District's discrimination complaint process and how to obtain a copy of the procedure;
 7. investigations must include interviews of all relevant witnesses, including the individual alleged to have been subjected to discrimination, and anyone else who may have knowledge of the alleged discrimination;
 8. records must be maintained documenting the processing and resolution of discrimination complaints, including documentation of witness interviews;
 9. as required by the Uniform Complaint Procedures, the complainant must be provided with written notice of the outcome of the complaint including a statement of all the issues raised, the findings made on each issue and the rationale for each, the corrective actions for each issue, if any, and notice of the right to appeal;
 10. the District is prohibited from intimidating, coercing, or retaliating against individuals because they allege disability discrimination or they advocate on behalf of others they reasonably believe are being discriminated against on the basis of disability; and
 11. designation of a knowledgeable individual at the District Office to serve as a resource for any administrators or school site staff members who have questions as to how the guidance applies to a given situation and/or scenario.
- C. The District will provide training to all teachers, special education staff, assistant principal(s), and the principal at the School and all District-level staff in the District's Special Education Department regarding the guidance memorandum described in Section I.A. The training may occur on more than one occasion so that all required staff can attend. The training(s) must be completed by May 25, 2017.
- D. OCR will provide training on grievance procedures and investigations of complaints of harassment and retaliation to all District staff responsible for investigating discrimination complaints including, but not limited to, the Assistant Superintendent of Human Resources, school principals, and school assistant principals.

II. Policy and Procedures

- A. The District will replace the current one-page “Uniform Complaint Procedures Annual Notification” from all classrooms and offices in the District with a revised one-page “Uniform Complaint Procedures Annual Notification” that is consistent with the Uniform Complaint Procedure described in the District’s Annual Notification Packet, Board Policy 1312.3, and Administrative Regulation 1312.3, which will include, but is not limited to, removing the statement that the District’s investigation and decision will be provided to the complainant within 30 days of receiving the complaint and there is an appeal process to the Governing Board.

III. Individual Student

- A. On or by December 16, 2017, the District will remove the reductions on XXXXXXXXXX English assignments solely because the work was late and revise the Student’s XXXXXXXXXX English grade as needed to reflect the revised points.

IV. Reporting

- A. On or by November 30, 2016, the District will provide drafts of the guidance memoranda described in Sections I.A. and I.B. to OCR for review and approval.
- B. Within ten (10) school days¹ of receiving OCR’s approvals of the guidance memoranda in Section IV.A., the District will issue the memoranda to the appropriate staff described in Sections I.A. and I.B., and provide OCR with written documentation showing that the appropriate staff received the guidance memoranda.
- C. At least ten (10) school days before the training(s) described in Section I.C., the District will provide to OCR for review and approval a copy of the training agenda, the name(s) and title(s) of the trainer(s), and a copy of the training materials.
- D. Within ten (10) school days of each training described in Section I.C., the District will provide OCR with (1) the name(s) and title(s) of the trainer(s); (2) the date(s) of the training(s); (3) a copy of the final agenda and materials used at each of the trainings; (4) a list of the participants including names and titles; and (5) the 2016-17 staff lists, including names and titles, for the School and the District’s Special Education Department.
- E. On or by March 24, 2017, the District will provide OCR with a written statement describing its progress in providing the training described in Section I.C. This statement will summarize the training(s) provided thus far and the District’s plan to provide any subsequent training(s) to fulfill the requirements of Section I.C. The District will

¹ In this Agreement, “school days” refers to days during the 2016-17 school year when students must attend school. The term does not include Teacher Work Days (non-student days).

designate knowledgeable persons to review and discuss this written progress report with OCR.

- F. Within ten (10) school days of OCR's training described in Section I.D., the District will provide OCR with (1) a list of the participants including names and titles and (2) a list of all District staff responsible for investigating discrimination complaints including, but not limited to, the Assistant Superintendent of Human Resources, school principals, and school assistant principals in the 2016-17 school year.
- G. By July 1, 2017, the District will provide OCR for review all Section 504 Plans and Individualized Education Plans (IEP) for students in the School that include an accommodation for additional time on assignments during the 2016-17 school year. The District will designate knowledgeable persons to review and discuss the Section 504 Plans and IEPs with OCR. The District understands that following this review, OCR may require the District to develop and disseminate additional guidance and training for the District staff regarding FAPE requirements according to Section 504 and Title II and their implementing regulations.
- H. By July 1, 2017, the District will provide OCR for review (1) all complaints alleging student-on-student and employee-on-student disability discrimination made in the 2016-17 school year and (2) all final written decisions, completed on or before May 25, 2017, to those student-on-student and employee-on-student disability discrimination complaints made in the 2016-17 school year. The District will designate knowledgeable persons to review and discuss the complaints and investigations with OCR. The District understands that following this review, OCR may require the District to develop and disseminate additional guidance and training for the District staff regarding the grievance procedures and how to investigate complaints alleging disability discrimination according to Section 504 and Title II and their implementing regulations.
- I. On or by December 16, 2016, the District will provide drafts of the revised one-page "Uniform Complaint Procedures Annual Notification" described in Section II.A. to OCR for review and approval.
- J. Within ten (10) school days receiving OCR's approval of the revised one-page "Uniform Complaint Procedures Annual Notification" in Section III.G., the District will replace the current one-page "Uniform Complaint Procedures Annual Notification" with the revised document, and provide OCR with written documentation showing that the revised one-page "Uniform Complaint Procedures Annual Notification" is posted in all classrooms and offices in the District.
- K. Within ten (10) school days of the date the District removes the late penalties related the Student's grade pursuant to Section III.A., the District will provide OCR with documentation of the Student's updated transcript and documentation calculating his XXXXXXXXXXXX English grade before and after removing the late penalties.

V. Monitoring

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 Section 504 and its implementing regulations, at 34 C.F.R. §§104.33 and 104.7(b), and Title II and its implementing regulations, at 28 C.F.R. §§35.103(a), 35.130(b)(1)(ii) and (iii), and 35.107(b), 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 Section 504 and Title II and the regulations implementing these statutes.

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 will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____
School/Recipient Representative

_____12/08/2016_____
Date