

Resolution Agreement
Gilroy Unified School District
OCR Case No. 09-16-1222

In order to resolve the concerns raised in the investigation of the above-referenced complaint 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), the Gilroy Unified School District (District), without admitting any violation of federal law, agrees to take the actions outlined in this Resolution Agreement (Agreement).

I. Individual Remedy

- A. By February 1, 2017, the District will reimburse the Complainant in the amount of up to \$100 for costs incurred by the Complainant for counseling sessions for the Student. No proof of payment is required for such reimbursement.

II. Written Guidance and Training

- A. The District will issue written guidance and provide training to all relevant staff at XXXXXXXX Middle School, including site administrators, special education teachers, school psychologists, and general education teachers, concerning the District's responsibility to ensure the provision of a free appropriate public education (FAPE) to students with disabilities under IDEA and Section 504. The guidance and training will include a focus on staff's responsibilities for ensuring that all students who may have a disability and need services under IDEA or Section 504 are located, identified, and evaluated for special education and disability-related services in a timely manner, particularly students with less obvious disabilities such as anxiety disorders or depression. The training will also address when the District must provide parents with notice of procedural safeguards in the IEP and Section 504 process and the requirement that the District obtain parental consent before conducting an evaluation of a student in the 504 process.

III. Revision to Notice of Parent/Guardian Rights and Section 504 Handbook

- A. The District will revise its Notice of Parent Guardian Rights and Procedural Safeguards document and its Section 504 Handbook to clarify that parental consent is required for any initial evaluation under Section 504, whether the evaluation is formal or informal.

IV. Monitoring and Reporting

- A. By March 3, 2017, the District will provide documentation showing that it has reimbursed the Complainant for the costs described in Part I.A, above.
- B. By March 3, 2017, the District will provide a draft of the guidance documents and proposed training materials described in Section II to OCR for review and approval. The District will issue the guidance and provide the training by April 14, 2017. Within 30 days of issuing the guidance documents and conducting the training, the District will provide documentation to OCR that the guidance documents were distributed and that all staff required under Section II were trained, and will also produce documentation (e.g., a sign-in sheet or other evidence) showing training attendance by name and title of attendees, a copy of the materials distributed at the training, the name and title of the trainer(s), and the date of the training.
- C. By March 3, 2017, the District will provide OCR with a copy of its revised Notice of Parent Guardian Rights and Procedural Safeguards document and/or its Section 504 Handbook for OCR review and approval.

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 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 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) days to cure the alleged breach.

_____/s/_____

Deborah A. Flores
Superintendent, Gilroy Unified School District

December 15, 2016

Date