

Temecula Valley Unified School District
Resolution Agreement
OCR Case No. 09-16-1519

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), under Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) the Temecula Valley Unified School District (District), agrees to take the actions outlined in this Resolution Agreement.

A. Guidance for District and Site Administrators on Section 504 and Title II Policies and Procedures

The District will provide a written guidance memorandum on its Section 504 and Title II Policies and Procedures to all District and site level administrators and staff who have or may have responsibility for initiating, developing or coordinating the implementation of Section 504 plans and evaluating students for a disability under Section 504 and Title II. The guidance memorandum will:

1. Reiterate the District's responsibilities for providing a free, appropriate public education (FAPE) to students with disabilities under Section 504, including a reminder that when the District has reason to believe that a student has a disability and needs or may need special education or related services under Section 504, the District is obliged to conduct an assessment of the student whether or not the parent has provided a diagnosis or other documentation, and whether or not the parent has requested an evaluation or services.
2. Explain the definition of an individual with a disability and the definition of major life activities consistent with Section 504 and Americans with Disabilities Amendments Act of 2008 (Amendments Act).¹
3. Identify criteria or indicators for when a Section 504 evaluation is necessary and summarize (1) how the Section 504 evaluation process is conducted, (2) required timelines, and (3) the individual responsibilities of administrators and staff.

B. Training for Staff

The District will conduct in-service training on its Section 504 policies and procedures for the Section 504 Coordinators and all other school site and District level staff responsible for compliance with Section 504 and identifying students with disabilities. The District will also

¹ These issues and other matters related to Section 504/Title II and the Amendments Act are explained in a "Dear Colleague Letter," including frequently asked questions, that was issued by OCR on January 12, 2012.

conduct training for Teachers and any other staff members at XXXXXXXXX High School (School) and the District who have responsibility for identifying students with disabilities.

1. The training will be conducted by an individual with experience and expertise in Section 504/Title II requirements and will specifically address the following: the definition of student with a disability under Section 504 and Title II, how to identify when a Section 504 evaluation should be conducted, how the Section 504 evaluation and placement process is conducted, required timelines, the individual responsibilities of administrators and staff, and the procedural rights of parents and guardians. OCR is available to conduct this training for the District at no cost.
2. The training will cover the following:
 - a. The District and School's responsibilities generally for providing FAPE to students with disabilities under Section 504.
 - b. The District's Section 504 policies and procedures for identification, evaluation and placement process, and procedural safeguards for parents, including for filing a complaint.
 - c. The definition of an individual with a disability, including how the determination must be resolved on a case-by-case basis after appropriate evaluation, and an exploration of the definition of disability and major life activities consistent with Section 504 and the Amendments Act.
 - d. The School's specific responsibility for conducting an evaluation of a student under Section 504 if it believes or has reason to believe that the student needs or may need special education or related services due to a disability, the academic and behavioral indicators for determining when such an evaluation is needed, and examples of circumstances where evaluation may be appropriate, which includes repeated absences due to medical illness, and the responsibilities of all employees to refer and to whom to refer if a disability is suspected.
 - e. The full range of services that can be provided under Section 504 including special education and related aids and services.
 - f. That students in GATE, honors, and Advance Placement classes or programs may be eligible for accommodations, modifications, special education and related services under Section 504.

C. Individual Remedy

1. Counseling and Academic Support Fund and Hours

- a. The District will provide student with compensatory education in the form of counseling and academic supports for up to fifty (50) hours total, in an amount not to exceed five thousand dollars (\$5,000) total, to be used between the time this Agreement is executed and May 31, 2018. In order to access this compensatory education services, or funding Parent or Student shall contact the District's Director of Child Welfare & Attendance to arrange for services to be provided by a nonprofit school or agency that is certified by the California Department of Education or otherwise qualified to provide academic instruction or counseling services. The District will fund tutoring and/or counseling directly through that agency upon contracting with the one(s) Parent or Student selects, for up to no more than fifty hours of service total, to be used by student in increments of her arranging for purposes of her desire in the time period specified in this Agreement. Once the District is informed by Parent of where she and Student are residing, the District will assist Parent and Student in identifying qualified providers near where they live that are able to provide these services, if Parent or Student wish for such assistance. The funds may also be used to pay for (1) the tuition associated with attending college courses at an accredited post-secondary institution of the Student's choosing; or (2) the materials required to enroll in the aforementioned courses. If Student wishes to use all or some of the funds for this purpose, she will contact the District's Director of Welfare to arrange it, and the amount funded will be deducted from the hours of service the District will otherwise fund directly. The hours and funds must be used within one year of the District notifying the Student and Parent of the provision or will be forfeited.
 - b. The District shall also assign a trained college counselor to work with the Student to help the student apply for colleges and scholarships and provide guidance about how to complete this process. The college counselor shall be available to the Student for a year from the date of the District's notification of this provision and for up to 40 hours of support; hours shall be logged and the Student shall be permitted to come to the District to complete applications and other materials and utilize the District's computer/internet to do the same. These hours are in addition to the hours and funds specified in Paragraph a.
2. The District will remove the Student's grade of "F" from her transcript in her 1540 Government class for the 2015-16 school year, replacing it with No Mark, and remove it from the student's grade point average calculation on the student's official transcript.

D. Reporting and Monitoring

1. Guidance memorandum: By February 28, 2017, the District will provide for OCR review and approval a draft of the guidance memorandum described in Section A. Within 3

days after receiving OCR's approval of the draft, the District will distribute the guidance memorandum with a copy and written confirmation of distribution sent to OCR.

2. Training: By February 28, 2017, the District will provide OCR with draft training materials and the qualifications of the individuals providing the training as required under Section B for OCR review and approval. By May 31, 2017, the District will provide the training. Within 30 days after the training date, the District will provide OCR with documentation that it has provided training to all administrators, faculty, and staff as required under Section B. The documentation will include the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, and a list of District employees who attended the training.
3. Individual Remedy
 - a. By February 28, 2017 the District will submit documentation to OCR confirming that it has made reasonable attempts to contact the Complainant and Student and notify them of the funds and counseling supports available to the Student. If both the District and OCR are unable to communicate with the Parent or the Student by this date, the individual remedies provided in this Agreement will be forfeited.
 - b. Within 15 days of the exhaustion of monies and hours available to the Student for counseling and academic supports, the District will notify OCR by letter or email to provide documentation of the hours exhausted and payments provided pursuant to Section C.1. The District understands OCR will monitor the process of the Student receiving counseling or academic support services during the 12 calendar month period starting when the Student Account was created, or until the Student Account funds and hours have been depleted, whichever comes earlier.
 - c. By February 28, 2017 the District will submit documentation to OCR confirming that it has changed the grade on the Student's transcript and notified the Complainant and Student in writing of the aforementioned change pursuant to Section C.2.
 - d. By February 28, 2017 the District will submit documentation to OCR confirming that it has contacted the Complainant and Student and notified them of the counselor available to the Student. Within 15 days of the exhaustion of counseling sessions made available to the Student, the District will notify OCR by letter or email that the Student has exhausted the sessions.

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 Title II and Section 504 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 Title VI and its implementing regulations, at 34 C.F.R. Part 100, 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/_____
Authorized representative of the District

02/08/2017
Date