

Resolution Agreement
San Dieguito Union High School District
Case No. 09-16-1553

The San Dieguito Union High School District (District) agrees to implement this Resolution Agreement (Agreement) to resolve the violations identified by the U.S. Department of Education, Office for Civil Rights (OCR), under Section 504 of the Rehabilitation Act of 1975 and Title II of the Americans with Disability Act and their implementing regulations in the above-referenced OCR case number. Without admitting to any violations of law, the District agrees to take the actions in this Resolution Agreement.

I. Section 504 Eligibility Determination Form

- A. The District will add the following statements on page 2 of its 504 Eligibility Determination Form: “Whether a student’s impairment substantially limits a major life activity must be considered in relation to the condition, manner or duration of the student’s performance of the major life activity, compared to the average, non-disabled, same age peer. While the degree of limitation must be determined to be substantial (in the multi-disciplinary team’s collective determination), to be eligible under Section 504, this analysis should be construed in favor of broad coverage of individuals, erring on the side of eligibility or technical eligibility when there is uncertainty among District staff as to the degree of limitation.”.
- B. The District will also include a section on the Section 504 Eligibility Determination Form where the multi-disciplinary team can document the facts that were reviewed and/or describe the team’s analysis in reaching its determination as whether a student is or is not substantially limited in performing a major life activity.
- C. Reporting Requirements
 - 1. By May 4, 2018, the District will submit a draft of the revised form to OCR for review and approval.
 - 2. Within 10 days of receiving OCR’s approval, the District will begin using the revised form at its Section 504 meetings.

II. Staff Training

- A. OCR will provide training for site administrators and counselors at the Student’s former middle school (XXXXXXXX XXXXXX XXXXXX) and the high school she has indicated she may return to (XX XXXXX XXXXXX XXXX XXXXXX) on the following:
 - 1. The meaning of disability under Section 504 and Title II.

2. The expanded definition of disability under the Americans with Disabilities Amendments Act of 2008 (Amendments Act). Specifically that the Amendments Act:
 - a. Requires the definition of disability to be construed in favor of broad coverage of individuals, to the maximum extent permitted by the Act.
 - b. The term substantially limit shall be interpreted consistently with the findings and purposes of the Amendment Act.
 - c. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.
 - d. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
 - e. That the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigation measures, except for ordinary glasses or contact lenses.
3. How to analyze and document whether a student performs a major life activity in a different condition, manner, or duration than a non-disabled student.
4. The need to conduct this analysis even if a student is able to achieve good grades in academically rigorous classes.
5. That a student who earns good grades may have a disability and be eligible for Section 504 supports and/or services.

III. Individual Remedy for the Student

- A. If the Student returns to the District by the first day of the District's 2019/2020 school year, or any time before, the District will hold a Section 504 meeting within 45 school days of her first day of attendance to determine if Student has current impairments, and if so, whether they meet the definition of a disability under Section 504, Title II, and the Amendments Act. As part of this evaluation, the District will also determine whether the Student is substantially limited as to the condition, manner or duration under which she performs her major life activities as compared to average, same age, non-disabled students without regard to the ameliorative effects of mitigating measures. The District will not be required to evaluate the Student if the Complainant decides that she does not want the Student evaluated at that time.
- B. Reporting requirements
 1. The District will notify OCR only if the Student re-enrolls at a District high school on or before August 30, 2019.

2. The District will also provide OCR with a copy of the Student's eligibility documentation forms that are completed during the Section 504 meeting within 10 school days of the meeting, only if it occurs.

IV. Remedy for Student 1

- A. The District will contact Student 1's parent or guardian and offer to convene a Section 504 meeting to consider if this student's impairment meets the definition of a disability under Section 504, Title II and the Amendments Act. The District will not be required to hold the Section 504 meeting if Student 1's parent or guardian state that they are not interested in having the evaluation.

B. Reporting requirements

1. By May 4, 2018, the District will contact Student 1's parent or guardian and offer to convene a Section 504 meeting for the Student. The District will inform OCR within 5 business days of receipt of Student 1's parent or guardian's response, as to their decision regarding the Section 504 meeting.
2. If the parent or guardian agrees to the evaluation, the District will hold the Section 504 meeting within 30 school days. The District will provide OCR with a copy of any forms that are completed during the Section 504 meeting to document the team's conclusions within 10 school days of the meeting.

V. Monitoring

- A. 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 the 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.
- B. Upon the District's satisfaction of the commitments made under this Agreement, OCR will close the case.
- C. 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/_____

Meredith Wadley,
Director of School & Student Services
San Dieguito Union High School District

April 28, 2018