

Resolution Agreement
El Dorado County Office of Education
OCR case # 09-16-1995

In order to resolve the noncompliance findings identified in the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) and their implementing regulations, the El Dorado County Office of Education (EDCOE) agrees to the terms of this Resolution Agreement (Agreement). In order to resolve the complaint, and without any admission of liability, EDCOE agrees to fully implement the terms below:

I. Policy & Procedures

- A. EDCOE will amend and adopt Superintendent Policy 2400 and Superintendent Policy 4100 (“the Policy”) to incorporate appropriate due process standards and provide a prompt and equitable response to complaints of discrimination, which includes harassment and retaliation (“discrimination”). The Policy must, at minimum:
- Provide a prompt and equitable response to complaints alleging discrimination on the basis of race, color, national origin, disability, sex, and/or age;
 - Apply to complaints alleging retaliation against an individual because he/she/they opposed any practice prohibited by discrimination laws. The Policy will state that an individual, who advocates on behalf of others, even though the individual may not fall within the group of individuals experiencing the prohibited discrimination, is protected. The Policy will provide examples of protected activity, including, but not limited to, an employee advocating for a student with disabilities;
 - Provide notice to students, parents, and employees regarding the complaint procedure and how to file a complaint, when requested;
 - Provide that the definition of a complainant includes the student or any individual who believes a student has been subjected to discrimination or who has witnessed or has knowledge of such discrimination;
 - Apply to complaints against students employees, and third parties;
 - Provide that complaints may be filed about discrimination in any academic, educational, extracurricular, athletic or other programs operated or sponsored by, or related to, EDCOE, whether the programs take place on the campus of a school, on a school bus, during a school-sponsored field trip, or other off-campus events;
 - Provide that any school employee who observes any incident of discrimination involving a student, or receives a complaint or other notice of such discrimination, shall report the information in a specified timeframe to a designated individual or his/her/their designee, whether or not the targeted individual files a complaint;
 - State that participation in an informal resolution, such as mediation, if applicable, must be voluntary, and any mediation between the parties must be

supervised and the target of discrimination will be advised that he/she/they have the right to terminate the information resolution process at any time.

- Include designated and reasonably prompt timeframes for the major stages of the complaint process (e.g., investigation, notice of outcome) as well as a process for extending timeframes;
- Provide that EDCOE's investigation is adequate, reliable, and impartial.
- Provide an assurance that if discrimination is found, EDCOE will take steps to stop the discrimination, prevent recurrence, and remedy discriminatory effects on the complainant and others, if appropriate;
- Require that notification is provided to the complainant and/or target of the alleged discrimination of the outcome of the investigation, including the steps taken to investigate the complaint, a summary of the information gathered, whether or not discrimination was found, the basis for that decision, and remedy and corrective actions;
- Include a statement that EDCOE prohibits any form of retaliation, intimidation, or harassment against any individual who filed or otherwise participated in the filing or investigation of a complaint of discrimination. Any individual who believes he/she/they have been subjected to retaliation may file a separate complaint under this procedure.

II. Training on Retaliation

- A. EDCOE will provide training to the all EDCOE employees responsible for investigating complaints according to the Policy, including, but not limited to, the EDCOE Personnel Services Executive Director, regarding EDCOE's policy prohibiting retaliation against EDCOE employees for engaging in activities protected by Section 504 and Title II and how to investigate such complaints. The training will include:
 1. The Section 504 regulations, at 34 C.F.R. §104.61, which incorporate 34 C.F.R. §100.7(e) of the regulations implementing Title VI of the Civil Rights Act of 1964 and prohibit school districts from intimidating, coercing, or retaliation against individuals because they engage in activities protected by Section 504;
 2. The Title II regulations, at 28 C.F.R. §35.134, which prohibit intimidation, coercion, or retaliation against individuals engaging in activities protected by Title II;
 3. The elements of retaliation, including protected activity, adverse action, causal connection, legitimate non-retaliatory reason for adverse action, and pretext. The discussion of protected activities will include, but is not limited to, protection of an individual who advocates on behalf of others, even though the individual may not fall within the group of individuals experiencing the prohibited discrimination;
 4. Relevant EDCOE nondiscrimination policies, including the Policy; the applicable legal standard; the elements of proof for determining if retaliation occurred; guidance on applying the facts gathered in the investigation to the legal standard; and preparation and contents that should be included in investigation reports.

III. Individual Remedy

- A. After all EDCOE employees responsible for investigating complaints according to the Policy have been trained per Section II, EDCOE will apply the Policy to complete its investigation of and issue a written notice of outcome in the Complainant's August XX and XX, 2016 allegations that the Teacher subjected her to workplace bullying and harassment in retaliation for her advocacy of students with disabilities, including the Student she was assigned to.
- B. If EDCOE's investigation determines that the Complainant was subjected to retaliation, then EDCOE's remedies will include, but is not limited to, steps to stop the retaliatory conduct and prevent its recurrence, and remedies for the discriminatory effects on the Complainant and others, if appropriate.

V. Reporting Requirements

- A. By September 30, 2017, EDCOE will provide to OCR for review and approval a draft of the Policy required under Section I. EDCOE will work with OCR to address any comments or concerns.
- B. Within 30 calendar days of OCR's approval of the Policy described in Section V.A., EDCOE will distribute the Policy to all EDCOE staff and provide OCR with confirmation that this subsection has been completed.
- C. By September 30, 2017, EDCOE will provide to OCR for review and approval documents pertaining to the training described in Section II, including: (1) a copy of the training agenda; (2) the name(s), title(s), and qualifications of the trainer(s); and (3) a copy of the training materials.
- D. Within 10 calendar days of the training described in Section V.C., EDCOE will provide OCR with: (1) a list of the training participants, including names and titles, and (2) a list of all EDCOE employees responsible for investigating complaints according to the Policy.
- E. By October 31, 2017, EDCOE will provide to OCR for review and approval (1) a copy of the investigation report from its investigation of the Complainant's retaliation allegation per Section III, including, but not limited to, a written report describing its actions to investigate the Complainant's retaliation allegation, the evidence collected, analysis, and findings, and (2) a draft of its written notice of outcome to the Complainant regarding the outcome of its investigation, including any remedies if EDCOE finds retaliation per Section III.B. EDCOE will work with OCR to address any comments or concerns with the investigation report and/or the draft written notice of outcome.
- F. Within 15 calendar days of OCR's approval of the written notice described in Section V.E., EDCOE will provide the Complainant with the written notice and provide OCR with confirmation the written notice was issued to the Complainant.

VI. Monitoring

EDCOE understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this

Agreement. Further, EDCOE understands that during the monitoring of this Agreement, OCR may visit EDCOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether EDCOE has fulfilled the terms of this Agreement and are in compliance with Section 504 and Title II and their implementing regulations which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

EDCOE 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 and § 100.10), or judicial proceedings to enforce this Agreement, OCR shall give EDCOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of EDCOE's representative below.

_____/s/_____
EDCOE Superintendent or designee

08/22/2017
Date