

Resolution Agreement
San Jose Unified School District
OCR Case No. 09-17-1415

The San Jose Unified School District (District) agrees to implement this Resolution Agreement (Agreement) in order to resolve the compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR) under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 *et seq.* (Section 504) and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.* (Title II), and their implementing regulations in the above-referenced OCR case number.

I. Individual Remedy

By June 1, 2018, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian, will determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to evaluate and/or provide special education or related services for the Student during 2016-17 school year. If so, within one week of its determination, the group will develop a plan for providing timely compensatory and/or remedial services with a completion date not to extend beyond the end of the 2017-18 school year. The District will provide the Student's parent/guardian notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

II. Guidance and Training

The District will issue written guidance and provide training to all appropriate District and School staff at XXXX XXXXX XXXXXX School and XXXXXX XXXX XXXX School, potentially 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 Section 504. The guidance and training will include staff's responsibilities for ensuring that all students who may have a disability and need services under Section 504 are located, identified, and evaluated for special education and disability-related services in a timely manner, including situations where a student has a medical condition requiring extended absences from school or is on home hospital instruction. The training will also address when the District must provide parents with notice of procedural safeguards Section 504 process and the requirement that the District conduct a timely Section 504 evaluation in accordance with the regulations and make any necessary accommodations in the evaluation process, including in situations where the student is unable to attend school due to his or her disability. The training will include that the District cannot require that a parent provide evidence of a student's disability

as a prerequisite for completing its own evaluation and/or making a determination as to whether the student is disabled and needs special education and related services, in accordance with the regulations.

III. Reporting

- A. Within 2 weeks of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR for review and approval documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, an explanation for decisions made, the information considered, and a description of and schedule for providing any compensatory and/or remedial services (if any) to the Student. OCR will, prior to approving the District's decision and plan for providing the proposed services, review the documentation to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36, and, as applicable, Title II, at 28 C.F.R. 35.160, in making these determinations.
- B. By June 1, 2018, if any compensatory/remedial services are offered, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, a description of what was provided, and the name(s) of the service provider(s).
- C. Within 30 days of the date of execution of this Agreement, 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 May 15, 2018. Within 30 days of issuing the guidance documents and conducting the training, the District will provide documentation to OCR 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.

IV. Monitoring

- A. The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further the District understands that during the monitoring of this Agreement, 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, 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.

