

Resolution Agreement
Conejo Valley Unified School District
OCR Case No. 09-17-1446

In order to resolve the compliance concerns identified by the U.S. Department of Education, Office for Civil Rights (OCR) in the investigation of the above referenced complaint against Conejo Valley Unified School District (District), and 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 District, without admitting to any violation of federal law, agrees to take the actions outlined in this Resolution Agreement (Agreement).

- A. Removal of Recommendation for Expulsion from Student's Cumulative File. The District agrees to remove or redact the following language from the Student's Student Suspension Notice (dated April XX, 2017): "SUSPENDED PENDING RECOMMENDATION FOR EXPULSION." The District also agrees to remove and or redact any recommendation for expulsion and any references thereto from any other document in the Student's cumulative file or record, which includes the removal of the memorandum entitled "Recommendation for Expulsion" (dated April XX, 2017) from the Student's cumulative file.

By December 31, 2017, the District will notify the Student's parents (Parents) that all mentions of recommendation for expulsion have been removed from the Student's cumulative file, including from the Student Suspension Notice dated April XX, 2017 and the Recommendation for Expulsion memorandum dated April XX, 2017. Within 15 calendar days of notifying the Parents, the District will provide OCR, for OCR's review and approval, with a copy of the notification and evidence demonstrating that this removal or redaction has occurred.

B. Section 504 or IEP Meeting(s) for Student

- a. *Compensatory Education:* The District agrees to (i) provide the Student with compensatory education services in the form of: 20 hours of speech and language services; 45 hours of individual counseling; and 50 hours of academic tutoring. The compensatory hours will be provided by qualified District staff. The District will develop (and provide to OCR for its review and approval) a plan and timeline for providing these compensatory services to the Student. Or, in the alternative, the District agrees to (ii) provide proper written notice to the Student's Parents and offer to convene a Section 504 or IEP meeting with knowledgeable persons, including the Student's Parents and all relevant District and/or Schools administrators, faculty and staff to determine: (1) when the District/Schools suspected or had reason to suspect that the Student needed or may have needed special education or related services due to a disability during the time he was enrolled in the District; and (2) the type and amount of compensatory services to address the District's failure to provide regular and/or special education or related services once it had reason to suspect the Student may have a disability, including as a result of discipline of the Student for the April XX, 2017 incident. The

Section 504 or IEP team will develop a plan for providing the compensatory services that are determined to be appropriate. The District will provide the Student's Parents notice of the procedural safeguards including the right to challenge the group's determination through an impartial due process hearing.

By December 3, 2017, the District will provide OCR, for OCR's review and approval, documentation verifying the compensatory services to be provided to the Student, including its plan and timeline for providing these compensatory services, in accordance with Section B.a.i. above; or, will provide OCR with a copy of the proper written notice it sent to the Students' Parents, in accordance with Section B.a.ii. above. If a Section 504 or IEP meeting is convened, by December 15, 2017, the District will provide OCR with meeting notes from the Section 504 or IEP team meeting, the Section 504 or IEP team's determination regarding the compensatory services that will be provided, its plan for providing compensatory services to the Student, and the basis for the team's determination, including why (and when) the team determined the District had reason to suspect the Student had a disability, as well as documentation that the District provided the Student's Parents procedural safeguards with respect to the meeting. If the Student's Parents decline the District's offer to convene the Section 504 or IEP meeting referenced in Section B.a.ii. above, the District will provide OCR with documentation of its offer and the Parents' decision to decline the offer by December 15, 2017.

The District will provide OCR with documentation that it has provided the compensatory services by June 30, 2019. The District will not be obligated under this Agreement to provide any outstanding compensatory hours after June 30, 2019, unless the failure to provide any such services by June 30, 2019 was caused by the District.

- b. *Assessment and Section 504 or IEP Meeting:* On September XX, 2017, the District received the Parents' consent to conduct an autism assessment on the Student. The District agrees to conduct this autism assessment on the Student by November 15, 2017. The District will convene a Section 504 or IEP team meeting to review the assessment results, discuss the Student's eligibility for special education and related services in all areas previously assessed and in all areas of suspected disabilities, the Student's placement (if any, if and when the Student reenrolls in a District school), and any appropriate special education or related services for the Student no later than November 30, 2017. Services to be considered during the Section 504 or IEP meeting will include a Behavioral Support Plan, speech and language services, reading interventions, academic tutoring, counseling services and classroom accommodations.

By December 15, 2017, the District will provide OCR with meeting notes from the Section 504 or IEP team meeting, a copy of the Student's IEP or Section 504 Plan, and a copy of the procedural safeguards provided to the Student's Parents.

- C. Revisions to Policies and Procedures Pertaining to Identifying Students for Special Education Services. The District agrees to revise (for OCR's review and approval) policies and procedures (including Administrative Regulations 6164.4 and 6164.6, and Board Policies 6164.4 and 6164.6) to clarify the District's process for identifying and locating students who need or are believed to need special education or related services under Section 504 or Individuals with Disabilities Education Act. This process shall be based on a review of the student's school records, including academic and nonacademic areas of the school program; a review of any Student Success Team (SST) meeting notes (including the effectiveness of interventions put in place by the SST team), if an SST has been conducted; consultation with/information provided by a student's teacher(s), other professionals, and the parent/guardian, as appropriate; and consideration of the student's needs. The District will also clarify its policies and procedures to state that although general education interventions may be attempted, when appropriate, prior to referral for Section 504 of Special Education services, such referrals will not be delayed by general education interventions when a student needs or is believed to need special education or related services due to a disability. Following OCR's review and approval of the District's revisions to these policies, the District will update its "Discipline Policy and Procedures and Annual Notice of Rights and Responsibilities for Parents, Students and Staff" (Annual Notice); any student, parent, or staff handbook (including any Section 504 handbooks); and any forms consistent with the revisions made.

By January 19, 2018, the District will provide OCR with its proposed revisions to these policies (including to the Annual Notice and any student, parent, or staff handbooks) for OCR's review and approval. Within 45 days of OCR's approval of revised policies, the District will adopt the revised policies and distribute them to each school site with instructions to cease using prior versions. Within 10 days of the District's distribution of these revised policies and handbooks, the District will provide OCR with evidence sufficient to demonstrate that they have been distributed in accordance with this Agreement.

- D. Section 504 Evaluations and Placement Training and Guidance Memorandum. The District agrees to provide training and a written memorandum to all District administrators who oversee Section 504, as well as all school administrators and certificated staff (including teachers and counselors) who oversee Section 504 and/or are involved in referring students for Section 504 evaluations and student eligibility for Section 504 services at XXXX XXXXX XXXXXXXXXXXX XXXXXX, XXX XXXXXXXXXXX XXXXXX XXXXXX, XXX XXXXXXXXXXX XXXX XXXXXX (collectively referred to as Schools). The memorandum and training will be provided by a District or County Office of Education administrator who has received training regarding Section 504 obligations and will include the following:
- a. The District's Title II and Section 504 obligations to provide students with a free and appropriate public education; the identification process (including revisions to the process, in accordance with Section C of this Agreement), evaluation and placement process; and procedural safeguards for parents, including:

- i. The Schools' responsibility for conducting an evaluation of a student under Section 504 if it suspects or has reason to suspect that the student needs or may need special education or related services due to a disability;
 - ii. What staff members should do when they suspect a student may have a disability and should be evaluated;
 - iii. The academic and behavioral indicators for determining when such an evaluation is needed, although academic success should not be a determining factor;
 - iv. Examples, pertaining to both physical and emotional/psychological disabilities, of circumstances where evaluation may be needed.
 - v. The requirement of providing parents/guardians with information about the procedural safeguards when the District has made any determination regarding whether to evaluate a student, whether a student is eligible under Section 504, and what services will be provided to a disabled student under Section 504.
 - vi. The role of the Section 504 coordinator.
 - vii. The appropriate use of SST meetings, including the fact that information collected during the SST meeting may trigger the Schools' responsibility for referring and evaluating a student under Section 504, and that SST meeting should not be used in lieu of conducting an evaluation of a student who is suspected of having a disability.
- b. The definition of an individual with a disability and the definition of substantial impairment and major life activities consistent with Section 504 and the Americans with Disabilities Act Amendments Act of 2008.
 - c. The full range of services that can be provided under Section 504, including special education and related aids and services.

By January 15, 2018, the District will provide OCR with a written guidance memorandum and a written description of the proposed administrator from the District or County Office of Education and his/her qualifications to provide this training to OCR for OCR's review and approval. By March 15, 2018, the District will confirm to OCR that it provided the trainings, including a sign-up sheet or other evidence of attendance by name. Within 20 days of OCR's approval of the written guidance, the District will issue the written guidance memorandum to District administrators, and the Schools' administrators and certificated staff.

- E. Written Guidance Memorandum and Disability-Based Harassment Training. The District will issue a written guidance memorandum and provide either in-person or online training webinars or modules to District and Schools' administrators, staff, and counselors on the District's anti-harassment policies and procedures. The written memorandum and training will, at minimum, include the following components:
- a. A statement setting forth the District's commitment to a harassment-free environment;
 - b. A general overview of Title II and Section 504, including how the laws' nondiscrimination provisions apply to students;

- c. An explanation of the District's Title II and Section 504 policies and procedures, including what constitutes disability-based harassment, corrective or disciplinary actions related to findings of violations of the District's harassment policies and procedures; and the District's policy prohibiting retaliation and intimidation;
- d. An explanation of what staff should do if they believe students have been subjected to harassment, including their duty to immediately report all allegations of possible harassment, including harassment based on disability; and
- e. The names and contact information for the designated employee(s) to whom students or others may report allegations of harassment, including harassment based on disability.

By January 15, 2018, the District will provide OCR with a written guidance memorandum and a written description of the proposed trainings, including the names and qualifications of the proposed trainers, to OCR for OCR's review and approval. By June 30, 2018, the District will confirm to OCR that it provided the trainings, including a sign-up sheet or other evidence of attendance by name. Within 20 days of OCR's approval of the written guidance, the District will issue the written guidance memorandum to District and Schools administrators, teachers, and staff.

F. Monitoring

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 the 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.

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) calendar days to cure the alleged breach.

CONEJO VALLEY UNIFIED SCHOOL DISTRICT

By: _____/s/_____
Robert Iezza, Deputy Superintendent

Date: 11/01/2017