

Resolution Agreement
San José Unified School District
OCR Case No. 09-18-1024

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), San José Unified School District (District), agrees to take the actions outlined in this Resolution Agreement (Agreement).

The District agrees to take the following steps:

I. Posting and Dissemination of the District's Policy on Service Animals

- A. Within ten days of the date on which this Agreement is signed, the District will provide a copy of administrative regulation AR 6163.2, "Service Animals at School," to OCR for review and approval.
- B. Within thirty days of OCR's approval, the District will finalize and publish the "Service Animals at School" policy (SAS) described in Section I.A. on its website and ensure that hard copies are available in the main District office and the front office of every school site.
- C. Within ten days of the date on which the District's SAS is published, the District will send an e-mail to all District and site-level administrators to notify them that the District's SAS has been revised and is posted on the District website and available in the main District office and in each school's front office, and provide a link to the SAS. The e-mail is to include the following language per the regulations at 28 C.F.R. § 35.104 and 28 C.F.R. § 35.136:
 - a. Under the Americans with Disabilities Act (ADA), a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. Reasonable modifications will be made in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
 - b. Examples of such tasks may include, but are not limited to: assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

- c. Schools¹ shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. Schools may ask (1) if the animal is required because of a disability and (2) what work or task the animal has been trained to perform. Schools shall not require documentation, such a proof that the animal has been certified, trained or licensed as a service animal.
 - d. Generally, schools may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person’s wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
 - e. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a school’s facilities where members of the public, participants in the services, programs or activities, or invitees, as relevant, are allowed to go.
 - f. A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.
- D. The e-mail will include the name and contact information of the District’s ADA Coordinator or designee should staff have any questions.
- E. The e-mail will also include language notifying each school principal that, within five business days of receipt of the e-mail, the school principal is to forward or otherwise circulate the e-mail to the school principal’s staff, and invite any staff member to contact the school principal and/or the District’s ADA Coordinator or designee with any questions.
- F. By March 20, 2018, the District will provide a draft of the e-mail described in Section I.C. to OCR for review and approval.
- G. Within five business days of OCR’s approval, the District will circulate the e-mail per the guidelines described in Section I.C.
- H. Within five business days of receipt of the e-mail described in Section I.C., the Director of Facilities, Operations, Maintenance, Grounds & Construction will provide a copy to all custodial staff and groundskeepers.

¹ OCR has replaced the word “public entity” as used in the regulations with the word “schools” for ease of reference for the District and staff.

- I. Within five business days of receipt of the e-mail described in Section I.C., each school principal will circulate the e-mail per the guidelines in Section I.E.
- J. The District will include a reference to the e-mail described in Section I.I. on the agenda of the next regularly scheduled staff meeting at the school at issue in this complaint,² as well as at every District school known to have students, staff or other members of the school community who require the assistance of a service animal. Each staff meeting agenda will also include a brief opportunity for discussion of the e-mail described in Section I.I., as well as question and answer (Q&A).

Reporting Requirements

- K. Within five days of the date on which it sends the e-mail described in Section I.C. to all District and site-level administrators, the District will provide a copy to OCR of the e-mail, along with a distribution list of the recipients.
- L. Within five days of the date on which it sends the e-mail described in Section I.C. to all District and site-level administrators, the District will provide confirmation that paper copies of the SAS are available in the main District office and in the front office of every school in the District.
- M. Within five days of the date on which it sends the e-mail described in Section I.H. to all custodial staff and groundskeepers, the District will provide a copy to OCR of the e-mail, along with a distribution list of the recipients.
- N. Within twenty days of the date on which it sends the e-mail described in Section I.C. to all District and site-level administrators, the District will provide a copy to OCR of the e-mails sent by each school principal to the school principal's staff.
- O. By June 30, 2018, the District will provide copies to OCR of the agendas of any staff meetings held at District schools per the guidelines described in Section I.J.

II. Letter to the Complainant

- A. Within ten days of the date on which this Agreement is signed, the District will draft a letter to the Complainant. The letter will include the following language:
 - a. The Complainant is welcome to bring his service animal to sporting events or other events at any school in the District and will not be denied entrance to any such event due to the presence of his service dog;
 - b. The District is working with the OCR to revise its Administrative Regulation 6163.2, "Service Animals at School," which will be published on the District website once approved and finalized;

² OCR notified the District of the school at issue at the beginning of its investigation of the complaint.

- c. The District will send e-mails to all District staff and administrators, including custodial staff and groundskeepers, to notify them of the revised “Service Animals at School” policy once approved and finalized;
- d. The District will e-mail the Complainant a link to the Administrative Regulation 6163.2, “Service Animals at School,” once published;
- e. The Complainant is welcome to contact the District’s ADA Coordinator or designee via e-mail or phone should he have any questions about the District’s service animal policies.

Reporting Requirements

- B. The District will provide a copy to OCR of the letter to the Complainant described in Section II.A. for review and approval.
- C. Within five business days of OCR’s approval, the District will send the letter to the Complainant by e-mail.
- D. Within three business days of the date on which the District sends the letter to the Complainant via e-mail, the District will provide a copy of the final letter and the e-mail to OCR.

III. 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 regulations implementing Section 504 and Title II at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, 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.

_____/s/_____
Superintendent/Designee
San José Unified School District

_____/02/12/2018_____
Date