

Resolution Agreement
Turlock Unified School District
OCR Case No. 09-18-1592

In order to resolve the concerns and findings of non-compliance made with respect to the above-referenced complaint to 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, as amended (Title II), the Turlock Unified School District (the District) agrees to take the actions outlined in this Resolution Agreement (Agreement).

I. Remedies for Student

- A. By September 17, 2021, 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 delay in identifying her as a student needing Special Education aids and services. 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 June 1, 2025. 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.
- B. By September 15th of each academic year which the Student is enrolled in a District school, after providing proper written notice to the Student's parent/guardian, a group of knowledgeable persons, including the parent/guardian and each subject matter teacher assigned to the Student, will meet to review the provisions of the Student's Individual Education Plan (IEP) in order to familiarize the staff responsible for implementing the Plan with the details contained therein.

II. Guidance and Training for Staff

- A. The District will issue a written guidance memorandum and facilitate training to all staff at the XXXXXXXX Elementary School (School) site and District Office who are directly involved in processing, investigating and/or resolving complaints or other reports of discrimination on the basis of disability including, but not limited to, disability-based harassment and concerns regarding the evaluation and placement of students with disabilities who may be eligible for an Individualized Education Plan (IEP) or Section 504 plans, whether or not

said reports are made pursuant to the District's Uniform Complaints Procedure. The guidance memorandum and training will:

1. Address the District's obligations under Section 504 and Title II to respond promptly and equitably to complaints of discrimination.
 2. Review the District's discrimination and harassment policies and procedures and include instruction on how to design, conduct and document adequate, reliable, and impartial harassment investigations, including the appropriate legal standards to apply in such investigations.
- B. The District will issue a written guidance memorandum and provide training to District and School site staff at XXXXXXXX Elementary School who are responsible for compliance with Section 504, including all site Section 504 coordinators, site administrators, special education teachers, school psychologists, physical education teachers and general education teachers. The written memorandum and training will, at minimum, cover the District's obligations under Section 504 and Title II to:
1. Provide a FAPE to all students with disabilities;
 2. Identify, refer, evaluate and place all students suspected of having a disability; including those who have been identified with seizure disorders, anxiety, and other health-related issues or medical conditions causing absences from school or home and hospital instruction;
 3. Provide a FAPE to a student who is considered an individual with a disability and qualifies for a Section 504 plan if s/he has a mental or physical impairment that substantially limits a major life activity and s/he needs special education or related aids and services. The substantial limitation need not affect learning for the student to qualify for a Section 504 plan;
 4. In making placement decisions, IEP or Section 504 teams will consider a full range of placement options, including regular or special education and related aids and services that are designed to meet the individual needs of any such students with disabilities as adequately as the needs of non-disabled students are met; and
 5. Ensure the IEP or Section 504 team is responsible for carefully considering and documenting all relevant information regarding a student's eligibility and/or placement.

III. Monitoring and Reporting

- A. Within 10 days of the IEP or Section 504 meeting to determine whether compensatory and/or remedial services are needed, the District will submit to OCR documents supporting the group's decision. The documentation submitted shall include documentation showing the participants in the meeting, the information considered, an explanation for decisions made, 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 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. Within 10 days of the annual IEP or Section 504 meeting to familiarize the Student's teachers with the provisions of her IEP, the District will submit to OCR the following documentation of the meeting: sign-in sheets evidencing the District employees who attended the training, a list of the required District employees who did not attend, and a plan for providing follow-up for those employees who did not attend, as needed.
- C. By June 30, 2022, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided, if any, a description of what was provided, and the name(s) of the service provider(s).
- D. By November 30, 2021, the District will submit a draft of the guidance memorandum, training materials, and title/name of the proposed trainers as described in Section (II)(A) of the Agreement for OCR review and approval.
- E. The District will finalize and issue the guidance memorandum and provide the training required in Section (II)(A) of the Agreement within 60 days of OCR's approval. Within 15 days of providing the training required in Section (II)(A) of the Agreement, the District will provide OCR with the following documentation: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, sign-in sheets evidencing the District employees who attended the training, a list of the required District employees who did not attend, and a plan for providing follow-up for those employees who did not attend, as needed.
- F. By November 30, 2021, the District will submit a draft of the guidance memorandum, training materials, and title/name of the proposed trainers as described in Section (II)(B) of the Agreement for OCR review and approval.
- G. The District will finalize and issue the guidance memorandum and provide the training required in Section (II)(B) of the Agreement within 60 days of OCR's approval. Within 15 days of providing the training required in Section (II)(B) of the Agreement, the District will provide OCR with the following documentation: the dates of the training, the names and titles of the trainer(s), a copy of any materials used or distributed during the training, sign-in sheets evidencing the District employees who attended the training, a list of the required District employees who did not attend, and a plan for providing follow-up for those employees who did not attend, as needed.

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.

_____/s/_____

Dana Salles Trevethan
Superintendent
Turlock Unified School District

_____08/11/2021_____

Date