

Resolution Agreement
Barstow Unified School District
OCR Case No. 09-19-1116

In order to resolve the 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 Barstow Unified School District (the District) agrees to take the actions outlined in this Resolution Agreement (Agreement).

I. Student Remedies

- A. By December 31, 2020, 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 failure to provide counseling services from October XX, 2018 through November XX, 2018 and from February XX, 2019 through March XX, 2019. 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 December 31, 2022. 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. Within 90 days of signing this Agreement, the District will offer to provide reimbursement for the Student for counseling and tutoring services to address the effects of the District's failure to provide an appropriate and effective response to notice of harassment of the Student.
- C. The District will conduct a review of whether other students in the SUCCESS class at XXXXXX XXXX Elementary School should be provided compensatory services due to the District's failure to respond to incidents of bullying.

II. Remedies Related to Training and Prevention of Harassment

- A. The District will provide training to all special education staff at XXXXXX XXXX Elementary School and XXXXXX Elementary School (including all site administrators, special education teachers, and aides). That training will cover at least the following topics:
 - i. implementation of Behavior Intervention Plans;
 - ii. removal from the classroom and requiring parents to pick-up their students for reasons related to behavior.
 - iii. guidance on manifestation determination requirements for special education students whose pattern of discipline constitutes a significant change in placement;

- iv. standards for appropriate communication with special education students so as to be consistent with BIPs and IEPs; and
 - v. guidance on reporting and responding to harassment of students with disabilities by staff or other students.
- B. The District will provide training to all District employees who are directly involved in processing, investigating and/or resolving complaints or other reports of harassment on the basis of disability. The training will review the District's discrimination and harassment policies and procedures and include instruction on how to conduct and document adequate, reliable, and impartial harassment investigations, including the appropriate legal standards to apply in such investigations and confidentiality requirements.
- C. The District will ensure that all aides at XXXXXX XXXX Elementary School assigned to work with students with disabilities are directly supervised by a credentialed teacher, including in circumstances in which a student is in a general education classroom, a special education classroom, or an RSP classroom.
- D. The District will review the October XX, 2018 incident with NPA Aide 1 and take all appropriate actions with NPA Aide 1 to prevent the recurrence of harassment of any students by NPA Aide 1.
- E. The District will ensure that all staff at NPS schools that the District contracts with are trained in effective de-escalation techniques, implementation of behavior intervention plans, and receive annual anti-harassment training.

III. Monitoring and Reporting

- A. Within two weeks of the decision described in Section I.A as to 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.

By December 31, 2022, the District will provide documentation to OCR of the dates, times and locations that compensatory and/or remedial services were provided pursuant to Section I.A, a description of what was provided, and the name(s) of the service provider(s).

- B. Within 45 days of signing of this Agreement, the District will provide OCR with its proposed plan under Section I.B for providing the counseling and tutoring services to the Student for OCR's review and approval.
- C. By December 31, 2020, the District will submit documentation to OCR verifying that the review described in Section I.C was completed, including a written description of the review and outcome signed by the person who completed the review.
- D. By December 31, 2020, 2020 the School will provide a draft to OCR of the proposed training materials (including the name and the title of the proposed trainer) described in Section II.A for OCR's review and approval. After OCR review and approval of the training materials, the School will provide the training at the School by June 30, 2021. By July 31, 2021, the District will provide documentation to OCR (e.g., a sign-in sheet or other evidence) showing training attendance by name and title of attendees, a list of any required staff that have not yet been trained, a copy of the materials distributed at the training, the name and title of the trainer(s), and the date of the training.
- E. By December 31, 2020, 2020 the School will provide a draft to OCR of the proposed training materials (including the name and the title of the proposed trainer) described in Section II.B for OCR's review and approval. After OCR review and approval of the training materials, the School will provide the training at the School by June 30, 2021. By July 31, 2021, the District will provide documentation to OCR (e.g., a sign-in sheet or other evidence) showing training attendance by name and title of attendees, a list of any required staff that have not yet been trained, a copy of the materials distributed at the training, the name and title of the trainer(s), and the date of the training.
- F. By October 1, 2020, the District will submit documentation to OCR confirming that the District is complying with Section II.C of the Agreement, including the name of each aide, the name of the teacher in the classroom the aide primarily works, and the teacher's credential status.
- G. By October 1, 2020, the District will submit a plan to OCR for its review and approval regarding the District's proposal for how it plans to conduct the review described in Section II.D. Within 30 days after the review with the aide is completed, the District will send documentation of completion, including a written description of the review and outcome signed by the person who completed the review.
- H. By July 31, 2020, the District will submit documentation to OCR confirming that the staff at the Non-Public Schools described in Section II.E have received the training described in that section.
- I. By August 30, 2021, the district will provide OCR with a copy of all complaints of discrimination and harassment against students with disabilities regarding incidents that occurred during the 2020-21 school year, as well as the District's response to all such complaints. By August 30, 2022, the District will provide the same report for the 2021-22 school year.

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/_____

_____07/28/2020_____

NAME Jeff Malan
TITLE Superintendent
Barstow Unified School District

Date