

Resolution Agreement
Hermosa Beach City School District
OCR Case No. 09-19-1214

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), Hermosa Beach City School District (District), without admitting to any violation of law, agrees to take the actions outlined in this Resolution Agreement (Agreement).

The District agrees to take the following steps:

I. Evaluation and Placement

- A. The District will convene a Section 504 meeting by June 7, 2019, or at a mutually agreed-upon date between the School¹ and the Student's parent (Parent), which is to be attended by a team of individuals knowledgeable about the Student, and about evaluation data concerning the Student. The purpose of the meeting, and subsequent meetings if necessary, is to ensure that the Student's placement and services are adequate to meet all of the Student's individual disability-related needs. The team will also review the March 2019 assessment of the Student, in which the Student was found ineligible for an Individualized Education Program (IEP), and will determine whether additional assessment of the Student is needed. The team will review all records pertinent to these determinations.
- B. If the Section 504 team determines that additional assessments or evaluation data are necessary to fully and correctly identify the Student's disabilities, the School will complete the necessary assessments within 60 days of parent consent to the assessment, not including breaks in the regular school sessions of over 5 school days. The date for completing the placement process may be extended for an additional 10 days. If the team determines that additional assessment is not needed, the team will document the reasons for that determination in the Student's Section 504 plan or an addendum.
- C. Either (a) at the Section 504 team meeting referenced in Section I.A. if the team determines that no additional assessments are needed or (b) at a subsequent meeting held within twenty days of the date of completion of any additional assessments, the team will review whether the services, accommodations and modifications currently in place for the Student are appropriate and sufficient to meet his individual needs, or whether additional or alternate services, accommodations or modifications are needed. In particular, the Section 504 team will discuss:
 - 1. Whether a Behavior Intervention Plan and/or Functional Behavior Assessment is/are needed for the Student;
 - 2. The home hospital arrangement currently in place for the Student, including the Parent's concerns that the Student is falling behind in his schoolwork; as well as

¹ OCR previously notified the District of the name of the school.

the Parent's request for consideration of modified grades and/or modified assignments for the Student;

3. Whether compensatory education services are appropriate to account for the period of time in late January 2019 and early February 2019 during which the Student was not attending school due to health complications; and
 4. Whether the language in the Student's Section 504 plan regarding teacher-parent communication with respect to the Student's missed or late homework or schoolwork is sufficiently clear and understandable to all parties or needs to be modified further.
- D. All decisions concerning whether services, accommodations or modifications are needed, and the basis for the decisions, will be documented in the Student's Section 504 plan.
- E. The Parent will be provided with written notice of procedural safeguards at the Section 504 meeting referenced in Section I.A.

Reporting Requirements

- F. By June 14, 2019, the School will provide OCR a copy of the Section 504 plan developed pursuant to the meeting described in Section I.A., the Section 504 plan meeting notes, and any documentation reviewed at the meeting, including completed assessments.

II. Individualized Support Plan

- A. The School will establish a Support Team to ensure the Student's safety at school as well as his access to School programs and activities. This Support Team will:
1. Include, at a minimum, the Parent, and at least one School staff member who is knowledgeable about the Student;
 2. Develop an individualized support plan (Support Plan) to ensure that all parties are apprised of the steps needed to keep the Student safe in school should he encounter difficulties;
 3. Establish a point person or point of contact; and
 4. Meet to review and revise the Support Plan as necessary and upon request of the Student or the Parent to ensure its continuing effectiveness for the duration of the Student's enrollment at the School. The first such meeting will be held on or before June 7, 2019. This meeting may be held in conjunction with the Section 504 meeting referenced in Section I.A. if the Section 504 team and the Parent are agreeable.
- B. If, during a Support Team meeting, the team raises issues about the Student's placement or services that are appropriate for discussion at a Section 504 meeting, the team may refer such issues for further discussion at a Section 504 meeting.

- C. The designated point of contact will meet with the Student’s teachers by June 12, 2019 to discuss the Support Plan and provide each of them a copy.

Reporting Requirements

- D. By June 14, 2019, the School will provide OCR a copy of the Support Plan, meeting notes pursuant to Section II.A.4, and any documentation reviewed at the meeting. The School will also confirm that each of the Student’s teachers has received a copy of the Support Plan.

III. Guidance Memorandum

- A. By May 31, 2019, the District will provide a draft of a guidance memorandum that clarifies school districts’ responsibilities under Section 504 to OCR for review and approval. The guidance memorandum is to include, but is not limited to, the following:
 - 1. Section 504 is a Federal law that prohibits disability discrimination by recipients of Federal funding, including school districts. All elementary and secondary school students who are qualified individuals with disabilities, as defined by Section 504, and who need regular or special education and related aids and services are entitled to a free and appropriate public education (FAPE). Under Section 504, FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met and are based on adherence to procedures governing educational setting, evaluation and placement, and procedural safeguards. Implementation of an IEP developed in accordance with the IDEA is one means of meeting the FAPE standard under Section 504.
 - 2. Section 504 also requires, among other things, that a student with a disability receive an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability.
 - 3. A list of major life activities as outlined in the Americans with Disabilities Amendments Act of 2008 (Amendments Act).
 - 4. Under Section 504, a student with a disability is defined as a person who: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment. The determination of whether a student has a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) must be made on a case-by-case basis. The definition of disability should be interpreted to allow for broad coverage of students.
 - 5. A school district must, at no cost to parents, evaluate students who are suspected of having a disability, or more than one disability, in all related or all specific areas of educational need to determine whether the student needs special education or related services as a result of the disability. In addition, the District must evaluate students suspected of having one or more disabilities even if the student exhibits behavioral (and not academic) challenges.

6. A student has a disability under Section 504 and Title II if a major life activity is substantially limited by the student's impairment. Nothing in the Americans with Disabilities Act or Section 504 limits coverage or protection to those whose impairments concern learning. Learning is just one of a number of major life activities that should be considered in determining whether a student has a disability within the meaning of those laws. School staff should note, in particular, that a student may have a disability and be eligible for Section 504 services even if the student's disability does not limit the major life activity of learning. Therefore, rather than considering only how an impairment affects a student's ability to learn, school staff must also consider how the impairment affects *any* major life activity of the student and, if necessary, assess what is needed to ensure that the student has an equal opportunity to participate in the school's programs.
7. School districts should not assume that a student's academic success necessarily means that the student is not substantially limited in a major life activity and therefore is not a person with a disability. Thus, grades alone are an insufficient basis upon which to determine whether a student has a disability. Moreover, they may not be the determinative factor in deciding whether a student with a disability needs special education or related aids or services. Grades are just one consideration and do not provide information on how much effort or how many outside resources are required for the student to achieve those grades.

Reporting Requirements

- B. Within ten days of receipt of OCR's final revisions, the District will finalize the guidance memorandum and circulate it via e-mail or other means to all District office staff responsible for overseeing the implementation of Section 504 plans or IEPs; all District site administrators; and all School staff.
- C. Within ten days of the date on which the District sends the final guidance memorandum to staff as described in Section III.B, the District will provide a copy of both e-mail to staff and final guidance memorandum to OCR.

IV. Revisions to Section 504 Plan Template

- A. By May 31, 2019, the District will revise its Section 504 plan template consistent with the definition of disability under Section 504 as broadened by the Amendments Act and provide a copy to OCR for review and approval.

Reporting Requirements

- B. Within 30 days of receipt of OCR's final revisions, the District will publish and circulate its revised Section 504 plan to all District staff responsible for overseeing the implementation of Section 504 plans or IEPs and all District site administrators and provide confirmation of such to OCR.

V. 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
Hermosa Beach City School District

05/09/2019
Date