

**Resolution Agreement**  
Morongo Unified School District  
OCR Case No. 09-19-1373

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

**A. Guidance for District and Site Administrators on Section 504/Title II Policies and Procedures**

The District will provide a written guidance memorandum on its Section 504/Title II Policies and Procedures to all site level administrators and staff who have or may have responsibility for initiating, developing, or coordinating the implementation of Section 504 plans and evaluating students for a disability under Section 504/Title II. The guidance memorandum will:

1. Reiterate the District's responsibilities for providing a free, appropriate public education (FAPE) to students with disabilities under Section 504/Title II, including reminders that:
  - a. when the District has reason to believe that a student has a disability and needs or may need special education or related services under Section 504 and Title II, the District is obliged to conduct an assessment of the student whether or not the parent has provided a diagnosis or other documentation, and whether or not the parent has requested an evaluation or services;
  - b. where a student with a disability is being bullied, schools must take immediate and appropriate action to investigate it, stop it from recurring. The District must remedy the effects of bullying on the services that the student with a disability receives to ensure the student continues to receive a FAPE. Where a student's behavior or academic performance indicate that a student may not be receiving FAPE, the Individual Education Plan (IEP) team or Section 504 team should meet to determine whether the student's educational needs have changed and provide any additional services promptly to ensure the student's ongoing receipt of FAPE. Any remedy should not burden the student who has been bullied.
2. Identify criteria or indicators for when an evaluation is necessary and summarize (1) how the Section 504 and Title II evaluation process is conducted, (2) required timelines, and (3) the individual responsibilities of administrators and staff.

**B. Training for District Personnel on Section 504/Title II Policies and Procedures**

The District will conduct in-service training on its Section 504/Title II policies and procedures for the Section 504 Coordinator, Counselors, Psychologists, Teachers, Administrators, and any other staff members at the School who have responsibility for identifying students with special needs.

1. The training will be conducted by an individual with experience and expertise in Section 504/Title II requirements and will specifically address the following: the definition of student with a disability under Section 504/Title II, how to identify when a Section 504 evaluation should be conducted, how the Section 504/Title II evaluation and placement process is conducted, required timelines, the individual responsibilities of administrators and staff, and the procedural rights of parents and guardians. OCR is available to conduct this training for the District at no cost.
2. The training will cover the following:
  - a. The District and School's responsibilities generally for providing FAPE to students with disabilities under Section 504/Title II.
  - b. The District's Section 504 policies and procedures for identification, evaluation and placement process, and procedural safeguards for parents, including for filing a complaint.
  - c. The School's specific responsibility for conducting an evaluation of a student under Section 504 if it believes or has reason to believe that the student needs or may need special education or related services due to a disability, the academic and behavioral indicators for determining when such an evaluation is needed, and examples of circumstances where evaluation may be appropriate and the responsibilities of all employees to refer and to whom to refer if a disability is suspected.
  - d. The full range of services that can be provided under Section 504 including special education and related aids and services.

**C. Training regarding Investigations of Allegations of Disability Harassment & Bullying**

1. The District will provide training regarding its disability complaint and investigation procedures to all School Administrators and staff responsible for responding to complaints of discrimination, harassment, intimidation, or bullying on the basis of disability, including but not limited to peer-to-peer harassment. The training will include a discussion on when any report of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, is submitted to or received by the principal or compliance officer, he/she shall inform the student or parent/guardian of the right to file a formal complaint.

2. The training will also cover the District's obligation, with regard to the bullying of a student with a disability, regardless of whether the bullying is on the basis of that student's disability, to take immediate and appropriate action to investigate the issue and as necessary, take steps to stop the bullying and prevent it from recurring.
3. The training will cover the District's obligations to determine whether, as a result of the effects of bullying, the needs of a student with a disability have changed such that the student is no longer receiving a FAPE.

**D. Individual Remedy**

1. The District will, within 30 days of the signing of this Agreement, or if the Student is not enrolled in the District at the time of the execution of this Agreement, within 15 days, after the Student's re-enrollment in the District, prior to or during the 2020-2021 school, and after providing proper written notice to the parent/guardian(s):
  - a. convene a group of persons knowledgeable about the Student to discuss and identify any areas for evaluation;
  - b. develop an evaluation plan and offer to conduct an evaluation of the Student under Section 504 with respect to any areas of suspected disability.
2. The District will conduct the above described evaluation(s) of the Student within 60 days of receiving consent from the Student's parent(s)/guardian(s), to the District's offer to evaluate and evaluation plan.
3. Within 10 days of completing the evaluation of the Student, the District will convene a group of persons knowledgeable about the Student, the evaluation data, and the placement options to determine:
  - a. what special education and disability-related services, including compensatory services, if any, are to be provided to the Student;
  - b. If it is determine that compensatory services are to be provided to the Student then, within one week of its determination, the District, in conjunction with the parent/guardian(s), will develop a plan for providing timely compensatory education services (the Plan) with a completion date not to extend beyond one year after the determination date. The District will provide the parent/guardian(s) with notice of the Section 504 procedural safeguards including the right to challenge the group's determination through an impartial hearing; and
  - c. whether the Student needs a safety plan.

## **E. Monitoring and Reporting**

1. By March 31, 2020, the District will provide a draft of the written guidance and proposed training materials described in Sections A, and B to OCR for OCR's review and approval. After OCR's review and approval of the written guidance and training materials, the District will issue the written guidance and provide the trainings by April 30, 2020. Within thirty (30) days of issuing the written guidance and conducting the trainings, the District will provide documentation to OCR showing how and when the written guidance was distributed, training attendance by name and title of attendees (e.g., a sign-in sheet or other evidence), 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.
2. By March 31, 2020, the District will provide a draft of the proposed training materials described in Section C to OCR for OCR's review and approval. After OCR review and approval of the training materials, the District will provide the training by April 30, 2020. Within thirty (30) days of conducting the training, 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.
3. Within ten (10) days of the District providing the offer to evaluate the Student and corresponding evaluation plan to the Student's parent(s)/guardian(s), a copy of the same will be provided to OCR by the District. If the District determines there is no reason to suspect any other disabilities, it will provide OCR with documentation that it has provided a written explanation of this determination to the Student's parent(s)/guardian(s) with a copy of their procedural safeguards within ten (10) days.
4. Within seventy (70) days of receiving consent from the parent(s)/guardian(s) to evaluate the Student, the District will provide OCR with documentation that it has conducted the appropriate evaluation(s) and held the corresponding Section 504 meeting(s), including by providing OCR with a copy of all Section 504 meeting notes, resulting plan(s) and related documentation of all placement decisions.
5. Within two weeks of the 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, including meeting notes, the individuals in attendance, all evaluative and other information considered, an explanation for the 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.

6. Within thirty (30) days, if the Student returns to the District, the District will provide documentation to OCR of the dates, times, and locations that compensatory and/or remedial services were provided, a description of what as provided, and the name(s) of the service provider(s).

The District understands that by signing the resolution agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. Further, the District understands that during the monitoring of the resolution agreement, if necessary, 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 and obligations of the resolution agreement. Upon the District's satisfaction of the commitments made under the Agreement, OCR will close the case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the resolution agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

\_\_\_\_\_/s/\_\_\_\_\_  
Tom Baumgarten  
Superintendent  
Morongo Unified School District

\_\_\_\_\_  
March 10, 2020  
Date