

San Marcos Unified School District  
Resolution Agreement  
OCR Complaint No. 09-21-1275

The San Marcos Unified School District (District), without admitting to any violation of law, agrees to implement this Resolution Agreement (Agreement) to resolve the compliance concerns identified by 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), and their implementing regulations in the above-referenced OCR case number.

I. Intradistrict Transfer Policies and Procedures:

- a. By November 16, 2022, the District will post a notice on its public-facing website clarifying the District's attendance standard for the application, grant, and revocation of intradistrict transfers.
- b. By November 16, 2022, the District will define the District's attendance standard for the application, grant, and revocation of intradistrict transfers in the District's policies and procedures concerning intradistrict transfers, including Administrative Regulation 5116.1 and the intradistrict transfer application and permit.

II. Written Guidance and Training:

- a. The District will issue a written guidance memorandum and facilitate training for all District administrators and District employees who have responsibilities pursuant to Section 504 and/or regularly participate in Section 504 meetings explaining the District's responsibilities to conduct assessments of students suspected of a disability and the prohibition against retaliation, including that:
  - i. All students suspected of having a disability shall be assessed;
  - ii. Whether to assess a student shall be based on the individual student and the factors related to that individual student that provide or do not provide a reason to suspect the student has a disability, and any practices that delay the evaluation of a student suspected of disability will be suspended; and
  - iii. If there is reason to suspect a student has a disability, assessments may not be delayed for any period of time, including six to eight weeks, while other interventions are attempted (e.g. Student Success Team interventions or Response to Intervention), although such interventions may be attempted concurrent with an assessment.
  - iv. Parents, guardians, students, and other stakeholders will be free from retaliation when requesting and advocating for the rights of students to be identified and evaluated under Section 504.

III. Individual Student Remedies:

- a. By September 16, 2022, after providing proper written notice to the Student's parent/guardian, the District will convene at Section 504 meeting with a group of knowledgeable persons,

including the parent/guardian, to determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide appropriate regular and/or special education or related services from January 2021 to August 2021. 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 September 16, 2023. 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.

IV. Monitoring and Reporting:

*Policies and Procedures*

- a. By October 14, 2022, the District will submit a draft of the notice as described in Agreement Section I(a) for OCR review and approval.
- b. Within 15 days of receiving OCR's approval, the District will: (1) finalize and distribute the notice described in Agreement Section I(a); (2) adopt the notice, post it on the District website and publish it in any written materials related to intradistrict transfers, and send an email to all staff and students with a link to the notice.
- c. Within 30 days of OCR's approval, the District will provide OCR with documentation of its distribution of the notice, including links, emails, and copies of written publications.
- d. By October 14, 2022, the District will submit a draft of the revised policies and procedures as described in Agreement Section I(b) for OCR review and approval.
- e. Within 15 days of receiving OCR's approval, the District will: (1) finalize and distribute the notice described in Agreement Section I(b); (2) adopt the policies and procedures, post it on the District website and publish it in any written materials related to intradistrict transfers, and send an email to all staff and students with a link to the revised policies and procedures.
- f. Within 30 days of OCR's approval, the District will provide OCR with documentation of its distribution of the policies and procedures, including links, emails, and copies of written publications.

*Written Guidance and Training*

- g. By July 29, 2022, the District will submit a draft of the guidance memorandum, training materials, and title/name of the proposed trainers as described in Agreement Section II(a) for OCR review and approval.
- h. Within 15 days of OCR's approval, the District will finalize and issue the guidance memorandum and provide the training required in Agreement Section II(a).
- i. Within 15 days of issuing the guidance memorandum in Agreement Section II(a), the District will provide OCR documentation of its distribution to all District administrators and District

employees who have responsibilities pursuant to Section 504 and/or regularly participate in Section 504 meetings.

- j. Within 15 days of providing the training requirement in Agreement Section II(a), 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.

#### *Individual Student Remedies*

- k. By August 19, 2022, the District will provide OCR with documentation showing that the District has invited the Complainant to attend the Section 504 meeting described in Agreement Section III(a).
- l. By September 1, 2022, the District will provide OCR with documentation that the District has scheduled the Section 504 meeting described in Agreement Section III(a).
- m. Within two weeks of the decision 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.
- n. If the Section 504 team determines compensatory education and/or remedial services are needed, by September 16, 2023, 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 was provided, and the name(s) of the service provider(s).

By signing this Agreement, the District understands that it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this 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 this Agreement and is in compliance with the statute and regulations at issue in this investigation. Upon the District's satisfaction of the terms and obligations of the Agreement and the statute and regulations at issue in this investigation, OCR will close this case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or Section 504, Title II, and their implementing regulation(s). Before initiating such proceedings, OCR will give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the District's representative below.

\_\_\_\_\_/s/\_\_\_\_\_  
Andrew S. Johnsen  
Superintendent, San Marcos Unified School District

\_\_\_\_\_07/19/2022\_\_\_\_\_  
Date