

Resolution Agreement
San Mateo-Foster City School District
OCR Case No. 09-22-1083

The U.S. Department of Education, Office for Civil Rights (OCR), initiated the above-referenced investigation pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), at 42 U.S.C. §§ 2000d-2000d-7, Section 504 of the Rehabilitation Act of 1973 (Section 504), at 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), at 42 U.S.C. §§ 12131-12134, and their implementing regulations. In order to resolve the violations identified by OCR in the above-referenced case, and without admitting to any violation of law, San Mateo-Foster City School District (District) agrees to implement this Resolution Agreement (Agreement).

I. Individual Remedy

By October 1, 2023, after providing proper written notice to the Student's Mother, the District will convene an Individualized Education Plan (IEP) meeting with a group of knowledgeable persons, including the Student's Mother, to determine whether the Student needs compensatory and/or remedial services as a result of the District's failure to provide the Student with appropriate regular and/or special education or related services between [redacted content], 2021. This determination will include (but not be limited to) a review of any missed instruction time as a result of the Student's shortened class schedule during that period.

If the IEP team determines that the Student needs compensatory and/or remedial services, within ten (10) calendar days of its determination, the team will develop a plan (Plan) for providing timely compensatory and/or remedial services with a completion date not to extend beyond December 1, 2024. This Plan will describe how, when, and by whom these services will be implemented, documented (documentation to include the material covered in all sessions, the length of time of each session, and the dates of all scheduled sessions), and communicated to the Student's Mother.

The District will provide the Student's Mother notice of the procedural safeguards, including the right to challenge the group's determination through an impartial due process hearing. The District will also ensure that all personnel responsible for providing the Student with these compensatory and/or remedial services receive copies of the Plan.

Reporting Requirements:

Within five (5) calendar days of the District providing proper written notice to the Student's Mother, the District will provide OCR with a copy of such notice. If applicable, within fifteen (15) calendar days of the decision as to whether compensatory and/or remedial services are needed, the District will submit to OCR, for OCR's review and approval, documents supporting the team's decision. The documentation submitted to OCR shall include the

identity of 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 10, 2024, if any compensatory and/or remedial services are offered, 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 services were provided, and the name(s) of the service provider(s).

II. Guidance Memorandum and Training

The District will issue a written guidance memorandum and facilitate training to District administrators, including the Director of Special Education, and School site administrators and staff, including the Principal, Assistant Principal, counselors, school psychologist, and teachers who have duties related to the District's responsibility to ensure the provision of a free, appropriate public education (FAPE) to students with disabilities under Section 504 and Title II and to ensure compliance with the District's non-discrimination policies and procedures.

The memorandum and training will, at a minimum, include the following components:

A. Non-Discrimination.

- A statement setting forth the District's commitment to an environment free from discrimination based on disability, race, color, or national origin;
- An overview of Section 504 and Title II;
- An explanation of the District's Section 504 and Title II policies and procedures, including what constitutes discrimination, the role of the designated compliance officer, and corrective or disciplinary actions related to findings of violations of the District's non-discrimination policies and procedures, including the District policy prohibiting retaliation and intimidation, and investigating reports of discrimination;
- Examples of disability discrimination, such as reducing a student's school day without following appropriate evaluation or placement procedures;
- An explanation of what administrators and staff should do if they believe students have been subjected to discrimination, or have received verbal or written complaints about discrimination, including their duty to report and investigate such complaints;
- The name and contact information for the designated employee(s) to whom students or others may report allegations of discrimination; and,

- Information regarding where staff may find the District's non-discrimination policies and procedures.

B. Free, Appropriate Public Education.

The District's Section 504 and Title II obligations to provide students with a FAPE, including the requirements to:

- Identify and locate students who need or who the District suspects or has reason to suspect need or may need special education or related services due to a disability, including:
 - the definition of an individual with a disability and the definition of substantial impairment and major life activities consistent with Section 504 and Title II;
 - the behavioral indicators for determining when a student needs an evaluation; and,
 - the full range of services that can be provided under Section 504, including special education and related aids and services;
- Evaluate students under Section 504 if the District suspects or has reason to suspect that the students need or may need special education or related services due to a disability, and provide procedural safeguards to students' parents/guardians;
- Convene a meeting with a multidisciplinary team, including the students' parent/guardian, teachers, special education teachers, Section 504 coordinator, and other individuals knowledgeable about the students, to determine the appropriate accommodations and/or modifications for the students, prior to an initial placement and when there is a change of placement (*e.g.*, reducing a student's school schedule);
- Develop a plan that includes details about how and when the services will be implemented, and how the implementation of the plan's provisions will be communicated to parents/guardians; and,
- Implement students' Section 504 and IEP plans.

C. Training.

The District will facilitate training to appropriate District administrators and School site administrators and staff who have duties related to the District's responsibility to ensure the provision of a FAPE or who supervise the investigation of, or are directly involved in processing, investigating, and/or resolving complaints or other reports of discrimination, including harassment and intimidation, on the basis of disability, race, color, or national origin, and any personnel who are likely to receive reports of discrimination (verbal or written), including the School principal, Vice Principal, and counselors. The training will, at a minimum, include the District's obligations to provide a FAPE, in addition to the following:

- Prohibited conduct;

- The District's policies and procedures for investigating and resolving reports and complaints of discrimination on the basis of disability, race, color, or national origin;
- Appropriate follow-up and communication with students and parents/guardians;
- How to conduct and document adequate, reliable, and impartial discrimination investigations, including the appropriate legal standards to apply in such investigations; and,
- Confidentiality and anti-retaliation requirements.

Reporting Requirements:

By September 1, 2023, the District will submit, for OCR review and approval, a draft of the guidance memorandum and a written description of the proposed training, as described above, including the names and qualifications of the proposed trainer(s).

Within thirty (30) calendar days following OCR's approval of the guidance memorandum, the District will issue the guidance to District administrators and the School site administrators and staff, as identified above. The District will concurrently provide OCR with verification it has done so.

By December 15, 2023, following OCR's approval of the proposed training, the District will confirm to OCR that it provided the training, including a sign-up sheet or other evidence of attendance by name, a list of any required District and School site administrators and staff who did not attend, a plan for providing follow-up for those individuals who did not attend, a copy of the materials distributed at the training, the name and title of the trainer(s), and the date of the training.

III. Monitoring

By signing this Agreement, the District agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the resolution agreement. During the monitoring of the 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 the Agreement.

The District understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the District is in compliance with the terms of the Agreement and the statute(s) and regulation(s) at issue in the case.

The District understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings to enforce the specific terms of the resolution agreement and the applicable statute(s) and 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.

By: _____/s/_____

Date: 08/14/2023

Printed Name: Heather Morgan

Superintendent/Designee

San Mateo-Foster City School District