

## **SETTLEMENT AGREEMENT**

### **I. INTRODUCTION**

Hardin School District, Big Horn County, Montana (District) enters into this agreement to resolve the compliance issues identified by the U.S. Department of Education (OCR) in its investigation of OCR Reference No. 10121263, conducted under the authority of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.

### **II. GENERAL PROVISIONS**

- A. This Agreement is a voluntary resolution of only those compliance issues identified by OCR in the investigation of OCR Reference No. 10121263 and does not constitute an admission by the District of any violation of Section 504 or Title II or any other law, which it has expressly denied.
- B. 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 a minimum of sixty (60) calendar days to cure the alleged breach.
- C. The District understands that by signing this Agreement, it agrees to provide OCR data and other information referenced herein in a timely manner. Further, the District understands that during the monitoring of this Agreement, OCR may visit the District's schools or place of business, interview staff and students upon prior notice and agreement with the District as to date and time, and request such additional records, documents or data as are necessary by OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with those regulations implementing Section 504 (at 34 CFR 104.35), and Title II (at 28 CFR 35.103), which are part of this Agreement or referenced herein.
- D. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with those regulations

implementing Section 504 (at 34 CFR 104.35), and Title II (at 28 CFR 35.103), which were at issue in this case and which are part of this Agreement or referenced herein.

### **III. REMEDIAL PROVISIONS**

#### **A. Policies and Procedures**

1. By September 1, 2014 the District will review and, if needed, revise the current policies, procedures, and practices at XXXXXXXXXX with respect to the evaluation and placement of students who, due to disability, need or are believed to need, special education or related services. The focus of the review will be on ensuring that:
  - a. The school promptly evaluates or reevaluates students who, due to disability, need or are believed to need special education or related services, or students whose need for special education or related services may have changed, to determine the student's current need for such services.
  - b. The District has a system of procedural safeguards in place that complies with Section 504 and its implementing regulation at 34 CFR 104.36, which is responsive to requests made by, or on behalf of a student to establish or revise an existing IEP or Section 504 plan, or to evaluate or reevaluate a student to determine the student's current needs for special education or related services.
2. Pursuant to the provisions of Section IV.A., below, after the District has reviewed its policies, procedures and practices in accordance with the above provisions and made any revision as it deems necessary and appropriate, it will submit to OCR copies of such policies, procedures and practices. OCR shall thereafter inform the District if it has determined that any such policies, procedures or practices as submitted to OCR need revision. If OCR identifies needed revisions, the District and OCR shall consult with one another to finalize such policies, procedures and practices that meet the requirements of Section 504 and its implementing regulation at 34 CFR 104.36, as determined by OCR with the understanding that the District does not waive its right, under applicable law and regulation, to challenge

OCR's interpretation or application of said regulation if a dispute arises concerning the District's compliance therewith.

B. Notice and Training

1. By September 15, 2014, the District will send written notice to administrators and staff at XXXXXXXXXXXX that provides:
  - a. information that a concern was raised with OCR on behalf of a student at the school who was on a Section 504 plan that administrators and staff did not fully comply with Section 504 in reevaluating the student to determine if the student may have qualified for special education or related services, and in revising the student's existing Section 504 plan; and
  - b. a reminder that Section 504 and District and school policies, procedures, and practices provide that:
    - i. School administrators and staff have a continuing obligation to take steps to ensure that any student who has been identified as a student with a disability, and for whom the school has established an Individualized Education Plan (IEP) or Section 504 plan, is evaluated or reevaluated in accordance with the law and regulation whenever the school receives information indicating that the student's need for special education or related services may have changed; and
    - ii. School administrators and staff have a continuing obligation to take steps to ensure that the school responds adequately and promptly, under the school's Section 504 procedures, to requests that are made to revise an existing Section 504 plan to reflect the student's current need for such accommodation or other services to be provided in accordance with Section 504.
2. Within 60 days from the date this agreement is signed, OCR will provide the District feedback and any suggested changes to the training materials utilized in the May, 2014, supplemental training. The District will provide the suggested changes to the training

materials and any supplemental materials provided by OCR to the XXXXXXXXXXXXXXXX staff during an in-service meeting conducted by the School District during the 2014-2015 school year.

3. Within 60 days from the completion of the District's and OCR's consultation regarding any changes to the District's policies, procedures and practices, as provided for in III, A, 1, c, above, and if OCR has identified modifications to the District's policies, procedures and practices that are required under Section 504, the District will provide notice to District administrators regarding the modifications, and the reasons for any modifications, and will include information about any such modifications during an in-service meeting conducted during school year 2014-2015.

C. Student-Specific Actions

1. The District has agreed to provide counseling services to the student through a counselor located at XXXXXXXXXXXX beginning June 2, 2014. By June 10, 2014, the District will provide documentation to OCR whether the parent or guardian has accepted the counseling services offered by the District and a description of the services to be provided including the name and title of the therapist providing such services.
2. The District agrees that, if the counseling services offered by the District are accepted by the student's parent or guardian, the services will continue to be made available to the student throughout the summer of 2014. Such counseling services may be continued following the summer of 2014 if the Section 504 plan team so agrees at its meeting scheduled to occur on or about August 20, 2014.
3. By June 2, 2014, the district agrees to provide information to the student's parent or guardian regarding educational services that are available to the student during the summer, including credit recovery and summer school. If the parent, guardian, or student makes a request, the District will provide assistance with enrolling the student in those services.
4. By September 1, 2014, the district will conduct a 504 plan team

meeting for the student. The District will invite the parent or guardian of the student to the 504 plan team meeting that is currently scheduled for August 20, 2014, to develop a 504 Plan in accordance with law and regulation for school year 2014-2015. The District will request updated medical information for the purposes of developing the student's 504 plan for school year 2014-2015. The District will provide the student's parent or guardian with a notice of such procedural safeguards and notices as are required by law or regulation which will include information concerning the parent's or guardian's opportunity to provide input into Section 504 determinations, notice of the determinations made and the right to challenge any determinations made by the 504 team.

#### **IV. REPORTING PROVISIONS**

- A. By June 10, 2014, the District will provide OCR with a list of the names and titles of District staff that attended the training conducted by the District's legal counsel in May of 2014, and with documentation relating to the counseling services offered by the District to the student that are referred to in section III. C. 1.
- B. By September 15, 2014, the District will provide OCR a copy of its policies and procedures or revised policies and procedures, which it developed pursuant to section III. A.1. of this agreement for OCR's review, a copy of the notice provided under III.B.1 of this agreement.
- C. Within sixty (60) days of any agreement with respect to revising any of its policies and procedures pursuant to Section III.A.2 of this Agreement, or later as agreed to by OCR if existing District policy or law or regulation so require, the District will provide OCR with documentation to substantiate that it has adopted the policies and procedures agreed to with OCR and that it has circulated the notice described in Section III.B.3 of this Agreement.
- D. By September 15, 2014, the District will provide OCR with the

following information:

1. A copy of the student's 504 plan that resulted from the 504 plan team meeting that was conducted on or about August 20, 2014 (or prior to the start of the 2014-2015 school year); and information concerning any reevaluation of the student recommended by 504 plan team; and
2. A copy of the notice provided to the student's parent or guardian prior to the scheduled meeting.

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Signed:

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Albert Peterson  
Hardin Public Schools

06/03/2014  
Date Superintendent