

## **VOLUNTARY RESOLUTION AGREEMENT**

### **I. INTRODUCTION**

Clark County School District (the district) enters into this agreement to resolve the complaint allegations raised in OCR Reference Nos. 10131060 and 10131139 filed with the U.S. Department of Education, Office for Civil Rights (OCR), under section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990 (Section 504 and Title II).

### **II. GENERAL PROVISIONS**

- A. This agreement resolves the allegations in OCR Reference Nos. 10131060 and 10131139 and does not constitute an admission by the district of any violation of Section 504, Title II, or any other law.
- B. OCR agrees to discontinue its investigation of OCR Reference Nos. 10131060 and 10131139 based upon the district's commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegations in these cases.
- C. The district understands and acknowledges that, if it does not fully implement this agreement, OCR will take appropriate measures within its authority to effect compliance and 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.
- D. The district understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, the district understands that during the monitoring of this agreement, OCR may visit the district's place of business, 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 regulation implementing Section 504 and Title II at 34 CFR 104.33(b) and 104.35 (a) and (b) and 28 CFR 35.130 which were at issue in these cases.

- E. 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 the regulations listed above, which were at issue in these cases.

### **III. RESOLUTION PROVISIONS**

#### **A. Evaluation and Placement Policies and Procedures**

1. By May 2, 2014, the district will review and revise, as necessary, its special education and Section 504 policies, procedures, and/or practices which are implemented at Lincoln Elementary School and Hickey Elementary School to ensure that students who, because of disability, need or are believed to need special education or related aids and services in order to enjoy equal access to the district's programs and services and receive a free appropriate public education are promptly evaluated and placed. This review will include, but not necessarily be limited to, a review of the process by which the district's Response to Instruction (RTI) and special education, procedures, and practices are implemented at Lincoln Elementary School and Hickey Elementary School. Specifically, this review will address the following:
  - a. evaluations of students who, because of disability, need or are believed to need special education or related aids and services are not unduly delayed by the RTI process;
  - b. timeframes are established for completing referral decisions and commencing evaluations of students who are referred for an evaluation by a parent, a teacher, or another individual; and
  - c. the school documents, in the student records, all information obtained during the referral process, including the initial referral request, the referral decision, and the information considered in making the referral decision.
2. By May 2, 2014, the district will review and revise, as necessary, its special education and Section 504 policies, procedures and practices which are implemented at Lincoln Elementary School and Hickey Elementary School to ensure that the disability-related educational services identified in each student's individualized education plan (IEP) or Section 504 plan are implemented in a timely and consistent manner. This may include, but need not be limited to, follow-up by the teacher of record to periodically check and confirm on a regular basis during the school year that each

student's disability-related educational services identified in their respective IEP or Section 504 plan are being implemented.

B. Staff Notice and Training

By May 20, 2014, the district will provide written notice and training to all teaching and administrative staff at Lincoln Elementary School and Hickey Elementary School regarding the district's obligation to timely refer and evaluate all students who, because of disability, need or are believed to need special education or related aids and services in order to enjoy equal access to the district's programs and services and receive a free appropriate public education. This training will ensure that all designated staff are informed that: (a) referrals and evaluations of students who need or may need special education or related aids and services will not be unduly delayed by interventions through the RTI process; (b) schools will adhere to the timeframes established for completing special education/Section 504 referral decisions and commencing evaluations of students who are referred for an evaluation by a parent and/or teacher; and (c) student records will include all information obtained during the special education/Section 504 referral process, including the initial referral request, the referral decision, and the information considered in making the referral decision.

C. Implementation of Referral and Evaluation Policies and Procedures

1. By May 20, 2014, the district will conduct a review of its electronic student educational records for students who attended Lincoln Elementary School and Hickey Elementary School during the 2012-2013 school year and were referred for an initial evaluation to ensure that those students who needed or were believed to need special education or related aids and services were promptly referred and evaluated consistent with the district's established policies and procedures as reviewed and revised pursuant to section III.B of this agreement. Specifically, the district will:
  - a. identify all students at Lincoln Elementary School and Hickey Elementary School who were referred for an evaluation to determine whether the student had a disability that required special education or related aids and services;
  - b. the date on which the request was received;
  - c. who made the request (if available);
  - d. if the student was not evaluated, whether the student's parent received notice of procedural safeguards;
  - e. the date on which the evaluation of each student commenced;

- f. the date on which the evaluation of each student was completed; and
  - g. the determination regarding whether each student was identified as needing special education or related aids and services.
2. If, through the review conducted under C.1, the district identifies any students for whom the student's parent and/or a district staff member requested an evaluation but there was no decision or response regarding the request to evaluate, the district will promptly reconsider the request, following the district's established policies and procedures for responding to evaluation requests. The district will provide compensatory services for any student found to be adversely affected by any undue delay in the district's evaluation of the student.
3. By June 16, 2014, the district will conduct a similar review of its student educational records at Lincoln Elementary School and Hickey Elementary School for the 2013-2014 school year, pursuant to the provisions of sections III.C.1 and 2, above.

D. Other Specific Remedies

By October 30, 2014, for students with disabilities on IEPs currently at Lincoln Elementary School for the 2013-2014 school year who were initially evaluated or re-evaluated while attending Lincoln Elementary School during the 2012-2013 year, the district will ensure that (a) the placement decision described in the IEP is appropriate to address the identified student's individual educational needs; and (b) that these identified students were provided with the full amount of the services described in their IEPs. In this regard, for those students described above, the district, at each student's annual IEP review, will review each student's placement described in the IEP in relation to their last evaluation to ensure that (a) the placement decision is appropriate for the student's individual educational needs; and (b) that these students were provided with the full amount of the services described in their IEPs. If the IEP team determines that there are any identified concerns based on this review, the IEP team will determine what, if any, compensatory services are necessary for any student who did not receive the full amount of services described in the student's IEP for the 2013-14 school year.

If an identified student's annual review IEP has already been held at Lincoln Elementary School for the 2013-14 school year, the district will provide notice and convene another IEP meeting prior to the end of the first quarter of the 2014-15 school year to review each identified student's placement described in the 2013-14 IEP in relation to their 2012-13 evaluation or re-evaluation to

ensure that (a) the placement decision was appropriate for the student's individual educational needs; and (b) that these identified students were provided with the full amount of the services described in their 2013-14 IEPs. If the IEP team determines that there are any identified concerns based on this review, the IEP team will determine what, if any, compensatory services are necessary for any identified student who did not receive the full amount of services described in the student's IEP during the 2013-14 school year.

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

- A. By June 2, 2014, the district will provide OCR a copy of its policies and procedures that were reviewed and revised as necessary pursuant to section III.A of the agreement, for OCR's review and approval.
- B. If there are any proposed revisions submitted under IV.A above, OCR will subsequently notify the district of its approval of the revised policies and procedures submitted pursuant to section III.A of the agreement. Upon receipt of OCR's approval the district will have 30 days to provide OCR with documentation to substantiate that it has adopted the OCR-approved policies and procedures.
- C. By June 2, 2014, the district will provide OCR with a copy of the written notice and outline of the training referenced in section III.B, above, the date or dates for the training, and a list of the names of the attendees and their titles.
- D. By June 30, 2014, the district will provide OCR with a report reflecting the actions taken pursuant to section III.C.1, above. Specifically, the report will include (1) the names or identifying numbers of all students at Lincoln Elementary School and Hickey Elementary School whose parent and/or district staff requested that an evaluation of the student be conducted to determine whether the student had a disability that required special education or related aids and services; (2) the date on which the request was received; (3) who made the request; (4) the response to the request and the date of the response; (5) if the student was not referred for an evaluation, what information was considered in making this determination and whether the student's parent received notice of procedural safeguards; (6) if the student was referred for an evaluation, the date on which the evaluation of each student commenced and the date on which the evaluation of the student was completed; and (7) the determination regarding whether the student was identified as needing special education or related aids and services.

- E. By June 30, 2014, the district will provide OCR with a report reflecting the actions taken pursuant to section III.C.2, above, for any students for whom a parent and/or district staff, during the 2012-2013 school year, requested an evaluation but there was no decision or response regarding the request to evaluate. The report will include a description of any compensatory services for any student found to be adversely affected by any undue delay in the district's referral or evaluation practices. The district will not be required to take action regarding those identified students who no longer attend the district.
  
- F. By September 15, 2014, the district will provide OCR with a report reflecting the actions taken pursuant to section III.C.3 regarding the 2013-2014 school year. This report will include the same specific reporting requirements outlined at section IV.D, above. The district will not be required to take action regarding those identified students who no longer attend the district.
  
- G. By November 15, 2014, the district will provide OCR with a report reflecting the actions taken pursuant to section III.D. This report will include (1) the name or identifying number of each student whose IEP was reviewed; (2) whether the services described in the IEPs are supported by the students' evaluation information; (3) whether the students were provided with the full amount of the services described in their IEPs; and (4) for any students that were not provided with the full amount of services, a description of the compensatory services that were provided to these students. The district will not be required to take action regarding those identified students who no longer attend the district.

Signed:

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Mr. Pat Skorkowsky  
Superintendent  
Clark County School District

\_\_\_March 31, 2014\_\_\_  
Date