

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

Hawaii State Department of Education (HSDE) enters into this agreement to resolve the allegations in a complaint (Reference No. 10141323) filed with the U.S. Department of Education, Office for Civil Rights (OCR), 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 resolves the allegations in OCR Reference No. 10141323 and does not constitute an admission by HSDE of any violation of Section 504, Title II or any other law.
- B. OCR agrees to discontinue its investigation of OCR Reference No. 10141323 based upon HSDE's commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegation in this case.
- C. HSDE 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 HSDE written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.
- D. HSDE understands that by signing this agreement, it agrees to provide OCR data and other information in a timely manner. Further, HSDE understands that during the monitoring of this agreement, OCR may visit HSDE facilities, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether HSDE 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(a) and 28 CFR 35.130 which were at issue in this case.
- E. HSDE understands that OCR will not close the monitoring of this agreement until OCR determines that HSDE has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II at 34 CFR 104.33(a) and 28 CFR 35.130.

III. RESOLUTION PROVISIONS

A. Procedures and Practices

By July 31, 2014, HSDE will review and revise, as necessary, its Section 504 procedures and practices implemented at XXXXXXXXXXXXXXX and XXXXXXXXXXXXXXX to ensure that all provisions contained in Section 504 plans are consistently implemented. Specifically, HSDE will ensure the procedures and practices comply with Section 504 regulations at 34 CFR 104.33, including the obligation to consistently provide all services listed in Section 504 plans unless a placement decision consistent with the procedural requirements of Section 504 has been made that a particular service is no longer necessary or appropriate.

B. Notice and Training

By August 8, 2014, HSDE will provide written notice to all instructional and administrative staff at XXXXXXXXXXX that HSDE is committed to complying with Section 504 and Title II, including the obligation to consistently provide all services listed in Section 504 plans. This notice will include a description of any changes to the Section 504 implementation procedures and practices that were identified in HSDE's review of XXXXXXXXXXX.

C. Student-Specific Actions

1. By July 11, 2014, HSDE and/or instructional and administrative staff at XXXXX will develop a system of recordkeeping to ensure that the provision of the student's Section 504 plan with respect to homework assignments and materials is consistently implemented. This system will be developed with input from the student's parent and other individuals knowledgeable about the student's disability. This system may include, but need not be limited to, a log book or checklist maintained on a daily basis documenting that all homework assignments are written down and that all materials needed to complete the homework are packed in the student's backpack.
2. By July 14, 2014, HSDE will provide a letter to the student's parent describing HSDE's commitment to ensure that all provisions of the student's Section 504 plan are consistently implemented. The letter will also describe the system of recordkeeping that will be followed per section III.C.1 of this agreement, and the name and contact information for the staff member who will be responsible for responding to any concerns from the parent regarding the provisions of the student's Section 504 plan as it relates to homework assignments and materials.

IV. REPORTING PROVISIONS

- A. By August 14, 2014, HSDE will provide OCR with a copy of XXXXXXXXXX implementation procedures and an outline of its practices reviewed under section III.A, including any revisions or changes made in order to ensure that provisions of Section 504 plans are consistently implemented. OCR will review the materials submitted and provide input.
- B. Within 20 days of receiving OCR’s input regarding the implementation procedures and practices, HSDE will provide OCR with revised procedures and practices that are responsive to OCR’s input, if necessary. Within 30 days of receiving OCR’s approval of the revised procedures and practices, HSDE will ensure that they are implemented at XXXXXXXXXX and will provide OCR with a report confirming the implementation.
- C. By August 14, 2014, HSDE will provide OCR a copy of the written notice given to staff at XXXXXXXXXX as described in section III.B.
- D. By July 21, 2014, HSDE will provide OCR with a draft description of the recordkeeping system plan that was developed pursuant to section III.C.1. OCR will review the draft and provide input to ensure that the system was developed consistent with the procedural requirements of Section 504. Within 20 days of receiving OCR’s input, HSDE will make any necessary revisions and resubmit the draft to OCR for approval.
- E. Within 20 days of receiving OCR’s approval of the proposed recordkeeping system, HSDE will begin implementation of the system as part of the student’s Section 504 plan.
- F. By July 21, 2014, HSDE will provide OCR with a copy of the letter that was provided to the parent pursuant to section III.C.2.

APPROVED:

_____/s/_____
Kathryn S. Matayoshi
Superintendent
Hawaii State Department of Education

_____/07/11/14_____
Date