

## VOLUNTARY RESOLUTION AGREEMENT

The American Samoa Department of Education (ASDOE) voluntarily agrees to take the following actions to resolve allegations filed with 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 (Title II) in OCR Reference No. 10151046.

### I. RESOLUTION PROVISIONS

#### A. Policies and Procedures

1. The ASDOE will review and revise its policies, procedures, and practices (revised policies), as needed, to ensure that all students with disabilities at ASDOE schools who require Extended School Year (ESY) services in order to receive a free appropriate public education (FAPE), are provided such services. The revised policies will ensure that ESY services that are designed to assist students who regress at a higher rate than other students during school breaks, are distinguished from other services that are provided while school is in session. The revised policies will also ensure that placement decisions for students with disabilities, such as the provision of ESY services, are made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and placement options.
2. **Reporting Requirement:** Within 60 days of the signature date of this Voluntary Resolution Agreement (this Agreement), below, the ASDOE will submit to OCR for review and approval a draft of its revised policies developed in accordance with Section I.A.1. If OCR requires any changes to the draft, the ASDOE will make the changes and resubmit the draft to OCR within 30 days of receiving OCR's suggested changes. OCR and the ASDOE will repeat this process until OCR has approved the revised policies, procedures, and practices.
3. **Reporting Requirement:** Within 60 days of receiving OCR's approval of the revised policies, the ASDOE will provide OCR a report demonstrating the ASDOE's adoption and implementation of the revised policies. The report will include the date the revised policies were implemented and the name of the person or group of people responsible for implementation.

#### B. Notice

The ASDOE will develop a notice to be distributed to all instructional and building-level administrative staff that includes the revised policies described in section I.A.1, above.

1. **Reporting Requirement:** Within 60 days of receiving OCR's approval of the revised policies pursuant to section I.A.2, above, the ASDOE will provide to OCR, for review and approval, a copy of its notice for staff. If OCR requires any changes to the notice, the ASDOE will make the changes and resubmit the notice within 30 days of receiving OCR's required revisions. OCR and the ASDOE will repeat this process until OCR has approved the notice.
2. Within 30 days of receiving OCR's approval of its notice for staff, the ASDOE will distribute the notice to all instructional and building-level administrative staff.
3. **Reporting Requirement:** Within 30 days of distributing the notice, the ASDOE will provide OCR with documentation sufficient to demonstrate that it provided this notice to all necessary staff.

C. Training

1. The ASDOE will develop proposed training for all Tafuna Elementary School instructional and building-level administrative staff regarding the revised policies described in I.A.1 above. The training will include, at a minimum, information about the provision of ESY to students with disabilities, and the make-up of the IEP and Section 504 teams that decide the necessary services, including ESY, for students with disabilities.
2. **Reporting Requirement:** Within 90 days of receiving OCR's approval of the revised policies pursuant to section I.A.2, above, the ASDOE will provide to OCR, for review and approval, a copy of its proposed training for staff, including the name and qualifications of the individual conducting the training, the method for providing the training, and an outline of the topics to be covered at the training. OCR will review the proposed training and notify the ASDOE if it requires any changes to the training. If OCR requires any changes, the ASDOE will make the changes and re-submit the proposed training to OCR within 30 days of receiving notice of OCR's required changes. OCR and the ASDOE will repeat this procedure until OCR approves the proposed training.

3. Within 90 days of receiving OCR's approval of its proposed training for staff, the ASDOE will provide the training to all Tafuna Elementary School instructional and building-level administrative staff.
4. **Reporting Requirement:** Within 30 days of providing the training, the ASDOE will provide OCR with documentation sufficient to demonstrate that it provided this training to all staff consistent with the training approved by OCR.

D. Student Specific Remedies

1. The ASDOE will prepare a letter to the student that expresses regret for the student's lack of ESY services during summer 2014, and outlines the steps the ASDOE is taking pursuant to this Agreement to ensure that it provides all necessary ESY services to students with disabilities in the future.
2. **Reporting Requirement:** Within 30 days of the signature date of this Agreement, below, the ASDOE will provide, for OCR's review and approval, a draft of the letter developed in accord with Section I.D.1. If OCR requires any changes to the letter, the ASDOE will make the changes and resubmit the letter within 30 days of receiving OCR's notice of required revisions. OCR and the ASDOE will repeat this process until OCR has approved the letter.
3. Within 30 days of receiving OCR's approval of the letter, the ASDOE will send the letter to the student's last known address, as well as email a copy of the letter to the student's mother.
4. **Reporting Requirement:** Within 30 days of sending the letter, the ASDOE will provide OCR with a copy of the letter that was provided to the student and the student's mother.

**II. GENERAL PROVISIONS**

- A. This Agreement resolves only those compliance allegations in OCR Reference No.10151046, and does not constitute an admission by the ASDOE of any violation of Section 504, Title II, or any other law.
- B. The ASDOE understands that by signing this Agreement, it agrees to provide OCR data and other information in a timely manner in accordance

with the reporting requirements of the Agreement. Further, the ASDOE understands that during the monitoring of this Agreement, if necessary, OCR may visit the ASDOE, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the ASDOE has fulfilled the terms of this Agreement. Upon the ASDOE's satisfaction of the commitments made under this Agreement, OCR will close this case.

- C. The ASDOE understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or Section 504 and Title II and their implementing regulations at 34 C.F.R § 104.35 and 28 C.F.R § 35.130. Before initiating such proceedings, OCR shall give the ASDOE written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Signed:

/s/

September 28, 2021

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Talauega Dr. Samasoni Asaeli  
Director of Education  
American Samoa Department of Education

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Date