

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Central Kitsap School District No. 401 (District) enters into this voluntary resolution agreement (agreement) to resolve the allegations in a complaint (Reference No. 10161057) 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).

II. GENERAL PROVISIONS

- A. This agreement resolves the allegations in OCR Reference No. 10161057 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 No. 10161057 based upon the District's commitment to take the actions specified in this agreement which, when fully implemented, will resolve the allegations in this complaint.
- C. The District understands and acknowledges that if it does not fully implement this agreement, then 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 CFR 100.9-100.10), or judicial proceedings to enforce this agreement, OCR shall give the District written notice of the alleged breach and 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 schools and facilities, including Silverdale Stadium, Olympic High School, and Klahowya Secondary School, obtain information from staff with knowledge of the schools and facilities, and request such additional reports or data related to the complaint as are necessary for OCR to determine whether the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 and Title II at 34 CFR 104.21-23; and 28 CFR 35.133, and 35.149-151, respectively, which were at issue in this complaint.
- 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 implementing Section 504 and Title II at 34 CFR 104.21-23; and 28 CFR 35.133 and 35.149-151, respectively, which were at issue in this complaint.

III. REMEDIAL PROVISIONS

A. Accessibility Plan

In consultation with OCR, the District will develop an accessibility plan to ensure that certain facilities and elements at Silverdale Stadium, Olympic High School, and Klahowya Secondary School, as referenced in the Appendix, comply with the applicable Section 504 and Title II accessibility requirements. The plan will include but shall not be limited to the components listed below.

(1) Facilities and Elements Planned for Renovation or Replacement

The District will identify the facilities and elements referenced in the Appendix that are planned for renovation or replacement. The District will ensure that the planned renovations and replacements will be designed and constructed to meet the Section 504 and Title II accessibility requirements that apply to new construction and alterations.

Reporting Step 1: By November 30, 2016, the District will submit a report identifying the facilities and elements listed in the Appendix, which are planned for renovation or replacement, and the estimated schedule for their renovation or replacement, based on the best available information.

Reporting Step 2: For the facilities and elements listed in the Appendix, which are planned for renovation or replacement, the District will submit design documentation that shows the planned solutions. These renovations and replacements must comply with the applicable new construction and alteration requirements of Section 504 and Title II. The design documentation may include but shall not be limited to: copies of relevant drawings, descriptions, and other information showing that the facilities and elements identified in the Appendix will comply with the applicable Section 504 and Title II accessibility requirements. The documentation will be submitted to OCR as it becomes available during the design process. OCR will have 15 days to review and approve the documents.

Reporting Step 3: Within 30 days of substantial completion of construction of each renovated or replaced facility and element listed in the Appendix, the District will provide a report demonstrating that the construction has been made in accordance with the submitted designs and complies with the applicable requirements of Section 504 and Title II. Within this paragraph, substantial completion means when the facility at issue is returned to the District for its use. The report will include sufficient documentation for OCR to discern whether the construction has been made in accordance with the designs and the Section 504 and Title II requirements, and may include but shall not be limited to: as-built drawings, photographs, and measurements.

Reporting Step 4: If there are any changes to the renovation or replacement work of the facilities and elements referenced in the Appendix, which affect the

accessibility of the facilities or elements, the District will provide OCR with copies of the proposed changes and documentation demonstrating that the proposed changes comply with the applicable Section 504 and Title II accessibility requirements. OCR will have 15 days to review and approve the changes.

(2) Facilities and Elements Not Planned for Renovation or Replacement

- (a) The District will determine, to the extent design and construction documents are readily available, the specific accessibility standards that apply to the facilities and elements referenced in the Appendix under Section 504 and Title II, which are not planned for renovation or replacement.

Reporting: By December 15, 2016, the District will submit a report identifying, to the extent it is able to do so, the specific accessibility standards that apply to the facilities and elements referenced in the Appendix, which are not planned for renovation or replacement. The report will include sufficient documentation and other information to support its determinations. OCR will review and approve the report.

- (b) The District will conduct an accessibility evaluation of the facilities and elements referenced in the Appendix, which are not planned for renovation or replacement. The evaluation will be designed to accurately assess whether these facilities and elements comply with the applicable accessibility standards, with respect to the allegations listed in the Appendix. This evaluation will also identify those facilities and elements that the District believes qualify for an exception as described in section III.A(4).

Reporting: By January 31, 2016, the District will submit a report regarding its accessibility evaluation for OCR's review and approval. The report will include but shall not be limited to: copies of checklists used as part of the assessment, measurements, photographs, and explanations of its determinations and analyses.

- (c) The District will develop an action plan to address the facilities and elements, which are not planned for renovation or replacement and are referenced in the Appendix, that do not comply with the applicable accessibility standards. The action plan will include but shall not be limited to: identifying the District's chosen method for addressing the inaccessible facilities or elements (e.g., reassignment of services to accessible locations, redesign of equipment, alterations of existing facilities, or other means that result in making the services and programs accessible); identifying the District employee(s) who will be responsible for implementing the District's accessibility plan; a description and schedule of the District's plans to provide accessibility; and a description

of the interim steps that the District will take in order to provide accessibility at the facilities pending completion of the action plan.

Reporting: By February 28, 2017, the District will submit its proposed action plan for OCR’s review and approval.

If the District believes that a proposed action is not required because it falls within one of the exceptions referenced in section III.A(4), the proposed action plan will include a detailed statement of the reasons for reaching that conclusion; documentation to support the conclusion; and a description of the actions the District intends to take to nevertheless ensure that to the maximum extent possible, individuals with disabilities receive the benefits or services offered at the school facilities.

(3) Implementation of Accessibility Plan

By September 30, 2018, the District will complete the implementation of section III.A.1, with respect to the facilities and elements listed in the Appendix, except for Appendix No. 1 and Appendix No. 2.b. As soon as it is feasible but no later than June 30, 2020, the District will complete the implementation of section III.A.2 with respect to the facilities and elements listed in Appendix No. 1 and Appendix No. 2.b.

Reporting: By September 1, 2017, and at least every 6 months thereafter until OCR concludes the monitoring of this agreement, the District will provide OCR with a report detailing its progress to date towards implementing the accessibility plan. Each report will provide sufficient information for OCR to determine whether the District is adhering to the plan and that the District’s actions to date comply with the Section 504 and Title II accessibility standards and requirements. The report may include but shall not be limited to: an explanation of the actions taken under the accessibility plan, including the interim steps being provided pending completion of the action plan; descriptions and documentation of the delivery of services at alternate accessible locations or other methods of providing accessibility; plans and drawings; descriptions, measurements, work orders, photographs, and as-built drawings ; funding allocations and invoices; and permitting documentation and communications with local officials.

(4) The District will not be required to take actions that it can demonstrate fall within one of the exceptions identified in the Section 504 and/or Title II regulations, such as:

- (a) Regarding existing facilities, the District is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burden.

- (b) Regarding changes in new construction (i.e., alterations), the District is not required to take actions that it can demonstrate has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full compliance with the minimum requirements which are necessary to provide accessibility.
 - (c) For newly constructed facilities, the District is not required to take an action where it can demonstrate it is structurally impracticable to meet the accessibility requirements. This occurs when the unique characteristics of the terrain prevent the incorporation of accessibility features.
- (5) Pursuant to section III.A of this agreement, the District agrees to timely provide all interim steps pending completion of any changes in order to ensure that individuals with disabilities in the school community are not subject to discrimination under the District’s services, programs, or activities because its facilities are not readily accessible to and usable by them.

B. Procedures

In consultation with OCR, the District will review and revise, as necessary, the District’s accessibility procedures to ensure that they are consistent with the accessibility requirements of Section 504 and Title II, and ensure that individuals with disabilities are not subject to discrimination in the District’s services, programs, or activities because a District facility is inaccessible or unusable. This includes providing students, parents, employees, visitors, and other members of the school community who have disabilities with access to school programs and activities offered in facilities with architectural barriers (e.g., athletic programs and competitions held in the Stadium, etc.). The procedures will identify how interested individuals with disabilities can obtain current and accurate information about the existence and location of accessible programs, services and facilities in the District, including those at Silverdale Stadium, Olympic High School, and Klahowya Secondary School.

This will include but shall not be limited to: (a) designating at least one person who will be responsible for collecting, maintaining, and disseminating current information about the existence and location of accessible programs, services, and facilities at the District, and who will be responsible for addressing requests and questions about accessibility (hereinafter, the “designated person”); (b) in accordance with section III.C(1), posting a notice about accessibility; and (c) periodically reviewing its published materials regarding the District’s accessible programs, services, and facilities, to ensure they are accurate.

Reporting Step 1: By December 31, 2016, the District will provide OCR a copy of its proposed procedures developed pursuant to section III.B, for OCR’s review and approval. The District may include these procedures in an existing procedure.

Reporting Step 2: Within 30 days of receiving OCR’s approval of the procedures, the District will provide OCR with a report demonstrating its adoption of them. The report will include but shall not be limited to: a copy of the final procedure(s); documentation showing the District’s adoption of the procedure(s); a description of where the procedures are to be published or maintained in the future; and documentation of the District’s appointment of the designated person.

C. Notice

(1) Accessibility Notice

The District will post and maintain a notice to students, parents, employees, and other interested individuals of the District’s commitment to provide accessible programs, services, and facilities in compliance with Section 504 and Title II. The notice will include an explanation of the District’s procedures for obtaining information about its accessible programs and facilities and requesting accessibility assistance, and the name and contact information of the District’s designated person.

Reporting Step 1: By December 31, 2016, pursuant to section III.C(1), the District will submit its proposed accessibility notice, which OCR will review and approve.

Reporting Step 2: Within 30 days of OCR’s approval, the District will submit a report showing its publication of the notice. The report will include but shall not be limited to: a copy of the final notice, and a description of how and when the notice was published and will be maintained in the future.

(2) Other Notice

Upon OCR’s review and approval of the District’s accessibility plan, and as needed thereafter, the District will notify students, parents, employees, and other interested individuals at Silverdale Stadium, Olympic High School, and Klahowya Secondary School of: (a) the actions it is taking under this agreement to improve accessibility, including the provision of any interim steps required under section III.A(5); (b) any substantive revisions made to the District’s procedures pursuant to section III.B, and where the procedures may be obtained; (c) the District’s procedures for obtaining information about its accessible services and facilities, and requesting accessibility assistance; and (d) the name and contact information of the District’s designated person.

Reporting Step 1: By December 31, 2016, the District will submit its notice pursuant to section III.C(2), which OCR will review and approve.

Reporting Step 2: Within 30 days of OCR’s approval, the District will distribute the notice to students, parents, employees, and other interested individuals at Silverdale Stadium, Olympic High School, and Klahowya Secondary School,

and will provide OCR with a copy of the final notice and documentation of its distribution.

Reporting Step 3: As necessary, the District will provide timely notice of any subsequent interim steps that it takes under section III.A(5) to students, parents, employees, and other interested individuals at Silverdale Stadium, Olympic High School, and Klahowya Secondary School. The District will provide OCR with a copy of any such notices within 15 days of their distribution.

D. Training

By March 31, 2017, the District will provide training to the District employees who are primarily responsible for implementing the District’s accessibility procedures referenced in section III.B, including the designated person. The training will include but shall not be limited to a review of: the accessibility requirements of Section 504 and Title II; the major changes made to the District’s procedures, and their responsibilities under the procedures; an explanation of the steps that the District will take under its accessibility plan; and the name and contact information of the District’s designated person.

Reporting: By April 15, 2017, the District will provide OCR a report regarding its training actions under section III.D. The report may include but shall not be limited to: the date(s) of the training; a copy of the training agenda and any training materials; the name and position title of the presenter; and the names and position titles of the District employees who attended the training.

Signed:

_____/s/_____
David McVicker
Superintendent
Central Kitsap School District No. 401

_____11/10/2016_____
Date

Appendix – List of Allegations Regarding Silverdale Stadium, Olympic High School, and Klahowya Secondary School

1. Silverdale Stadium is inaccessible because its covered seating and bleachers lack accessible seating, including vertically dispersed seating, and only has stairs leading to the seating.
2. Olympic High School is inaccessible because:
 - a. There are too few accessible parking spaces at the school site, and the 12 accessible parking spaces that are provided are not dispersed appropriately.
 - b. The two accessible parking spaces by the pool building are too steep.
 - c. The eight accessible parking spaces near the main entrance of the school building are too steep.
 - d. The pedestrian route from the eight accessible parking spaces to the main entrance of the school building is too steep.
 - e. The eight accessible parking spaces are not located on the shortest accessible route from the parking to the main entrance.
 - f. The walkway adjacent to the two accessible parking spaces located closest to Silverdale Stadium is too steep.
3. Klahowya Secondary School is inaccessible because:
 - a. There is no accessible route from either the accessible parking or the accessible school entrances to the softball and baseball fields.
 - b. There are no accessible parking spaces located at the softball or baseball fields, and the accessible parking spaces, which are provided in the school parking lot, are too far away.
 - c. The two accessible parking spaces closest to the softball and baseball fields and tennis courts are too steep.
 - d. There is a wheel stop installed in the access aisle serving the two accessible spaces, which reduces the width of the accessible route.
 - e. The spectator seating and viewing areas for the softball and baseball fields have gravel surfaces.
 - f. The softball and baseball fields lack accessible restrooms.
 - g. The gymnasium bleachers do not offer accessible seating for individuals with mobility impairments, who do not use wheelchairs.
 - h. Sports team equipment and chairs block the wheelchair seating area for the gymnasium bleachers during games.
 - i. The gymnasium bleachers do not offer wheelchair seating that is horizontally dispersed or that have adequate lines of sites.