

**SETTLEMENT AGREEMENT**  
**Cassia County Joint School District No. 151**  
**OCR Reference No. 10161154**

Cassia County Joint School District No. 151 (District) enters into this agreement with the U.S. Department of Education, Office for Civil Rights (OCR) to resolve OCR Reference No. 10161154, conducted under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II).

**A. Compensatory Education - Policies, Procedures and Notice to Staff**

1. **Action Item**: The District will review and revise its Section 504 policies and procedures to affirmatively state that a student's residence in the District is not a barrier to the provision of compensatory education as a remedy for students who are no longer residents of or otherwise enrolled in the District but for whom a determination has been made by the District or another administrative or judicial authority that the student has been denied a free appropriate public education and is entitled to compensatory services.
2. **Reporting Requirements**:
  - a) By October 31, 2017, the District will submit a draft of the revised policies and procedures developed in accordance with Action Item A.1 to OCR for review and approval. OCR will review the draft submitted by the District and notify the District if revisions are required. If OCR requires revisions to the draft, the District will re-submit the revised policies and procedures to OCR for review and approval within 30 days of receiving notice of the revisions required by OCR. OCR and the District will follow the same process until OCR approves the District's policies and procedures.
  - b) Within 45 days of receiving OCR's written approval of the revised policies and procedures, the District will submit to OCR documentation verifying it has adopted and implemented them, including a working link to the revised policies and procedures on the District's website, if available.
3. **Action Item**: The District will develop a memorandum, policy or similar guidance (compensatory education guidance) for OCR review and approval to be given to the Special Education Director, 504 Coordinator, and all school Principals at the District who are involved with the evaluation and placement of students with disabilities. The compensatory education guidance will provide information regarding the revised policies and procedures for the provision of compensatory education as described at Action Item A.1. The

compensatory education guidance will inform the Special Education Director, 504 Coordinator, and all school Principals that the provision of compensatory education for students who are no longer residents of or otherwise enrolled in the District may include, as appropriate, out-of-district transportation to an educational site for delivery of services, or contracting with a student's current district or local provider in a student's new residence to provide compensatory services.

4. **Reporting Requirement:** Within 45 days of receiving OCR's written approval of the revised policies and procedures described at Action Item A.1, the District will submit a draft of the compensatory education guidance developed pursuant to Action Item A.3 for OCR review and approval. OCR will review the draft submitted by the District and notify the District if revisions are required. If OCR requires revisions, the District will re-submit the draft of the compensatory education guidance to OCR for review and approval within 30 days of receiving notice of the revisions. OCR and the District will follow the same process until OCR approves the District's the compensatory education guidance.
5. **Action Item:** Within 30 days of receiving OCR's written approval of the compensatory education guidance, the District will provide written notice to the Special Education Director, 504 Coordinator, and all school Principals at the District who are involved with the evaluation and placement of students with disabilities on the information set forth in the compensatory education guidance.
6. **Reporting Requirement:** Within 60 days of receiving OCR's written approval of the compensatory education guidance, the District will submit to OCR documentation verifying that the compensatory education guidance has been provided to all administrators and staff at the District who are involved with the evaluation and placement of students with disabilities. This documentation will include the names and position titles of the Special Education Director, 504 Coordinator, and all school Principals who received the compensatory education guidance, and the manner in which it was provided.

**B. Compensatory Education - Individual Student Remedy**

1. **Action Item:** The District will offer to provide the student who was the subject of this investigation with 51.25 hours of compensatory education, similar to the compensatory education which the District would have provided had the student remained within the District. The District will send a letter to the

student's parents which explains that the District is prepared to offer 51.25 hours of compensatory education, and that the manner, kind, dates and times of compensatory education, as appropriate, will be determined by mutual agreement of the District and the parents within 30 calendar days of the date of the notice. The letter will inform the parents that the provision of compensatory education may include, but need not be limited to, establishing a fund to be allocated solely for the student's compensatory education, or contracting with the student's current district or local provider in the student's new residence to provide compensatory services. In the event that the District and the parents cannot agree about the manner, kind, dates and times of compensatory education, the parties will submit the issue to the hearing officer of the Idaho State Department of Education to determine the manner, kind, dates and times of compensatory education to be provided as contemplated by the original hearing decision in this matter. During the time that the Hearing Officer is addressing the dispute between the parties, all deadlines and time requirements contained in this Agreement regarding the individual student remedy will be tolled.

2. **Reporting Requirements:**

- a) By September 30, 2017, the District will submit a draft of the letter to the student's parents for OCR review and approval. OCR will review the letter submitted by the District and notify the District if revisions are required. If OCR requires revisions, the District will re-submit the draft of the letter to OCR for review and approval within 30 days of receiving notice of the revisions. OCR and the District will follow the same process until OCR approves the District's letter.
- b) Within 15 days of receiving OCR's written approval of the letter to the student's parents pursuant to Action Item B.1, the District will send the letter to the student's parents and provide OCR with a copy of the letter.

3. **Action Item:** Within 21 days after the deadline for the parents to respond to the District's letter, the District will provide OCR with a report regarding the District's plan, with completion dates included, for providing the compensatory education to the student.

4. **Reporting Requirement:** Within 21 days of completing the provision of compensatory education to the student, the District will submit a report to OCR containing a summary of the compensatory services that were provided to the student.

**C. Open Enrollment Policies, Procedures and Training**

1. **Action Item:** The District will review and revise its open enrollment policies and procedures for both out-of-district applicants and in-district transfers to ensure that students with disabilities are not treated differently from non-disabled students with respect to consideration for placement in the school of their choice, unless the District has made an individual determination that disability-related needs of a particular student with a disability cannot be met at the school of their choice. The policies and procedures will ensure that such decisions are made by a group of persons knowledgeable about the student, the student's disability evaluation data, and the placement options. The policies and procedures will also ensure that details regarding such placement decisions, including all persons involved in the making the placement decision, are documented and recorded as part of the district's open enrollment record-keeping. In addition, the notification documents routinely sent to parents/guardians of students shall include a statement that students with disabilities are not treated differently from non-disabled students with respect to consideration for placement in the school of their choice, unless the District has made an individual determination that disability-related needs of a particular student with a disability cannot be reasonably met at the school of their choice due to appropriate considerations of teacher and staff, resources, program availability, hardship to the District, Declaration of Hardship and/or other factors.
  
2. **Reporting Requirements:**
  - a) By October 31, 2017, the District will submit a draft of the revised policies, procedures, and parent/guardian notice developed in accordance with Action Item C.1 to OCR for review and approval. OCR will review the draft submitted by the District and notify the District if revisions are required. If OCR requires revisions to the draft, the District will re-submit the revised policies, procedures and/or notice to OCR for review and approval within 30 days of receiving notice of the revisions required by OCR. OCR and the District will follow the same process until OCR approves the District's revised policies, procedures and notice.
  
  - b) Within 45 days of receiving OCR's written approval of the revised policies, procedures, and/or notice, the District will submit to OCR documentation verifying it has adopted and implemented them,

including a working link to the revised policies, procedures and/or notice on the District's website.

3. **Action Item**: The District will develop a memorandum, policy, or similar guidance (open enrollment guidance), for OCR review and approval, to be given to all principals at the District who are involved with the open enrollment process, that provides information regarding the revised policies and procedures as described at Action Item C.1. The open enrollment guidance will inform principals that students with disabilities shall not be treated differently from non-disabled students with respect to consideration for placement in the school of their choice under open enrollment, unless it is determined by a group of persons knowledgeable about the student, the student's disability evaluation data, and the placement options that the disability-related needs of a particular student with a disability cannot be met at the school of their choice due to teacher and staff, resources, program availability, hardship to the District, Declaration of Hardship and/or other factors.
4. **Reporting Requirement**: By October 31, 2017, the District will submit a draft of the open enrollment guidance for OCR review. OCR will review the draft submitted by the District and notify the District if revisions are required. If OCR requires revisions, the District will re-submit the open enrollment guidance to OCR for review and approval within 30 days of receiving notice of the revisions. OCR and the District will follow the same process until OCR approves the District's the open enrollment guidance.
5. **Action Item**: Within 30 days of receiving OCR's written approval of the open enrollment guidance, the District will distribute the open enrollment guidance to all administrators and staff at the District who are involved with the open enrollment process.
6. **Reporting Requirement**: Within 45 days of receiving OCR's written approval of the open enrollment guidance, the District will then submit to OCR documentation verifying that the open enrollment guidance has been provided to all relevant administrators and staff at the District. This documentation will include the names and position titles of all District staff who received the open enrollment guidance, and the manner in which it was provided.
7. **Action Item**: For the 2017-2018 school years, the District will submit to OCR a report regarding the implementation of the revised open enrollment policies and procedures developed in accordance with Action Item C.1. The report will

include the following for both out-of-district applications and in-district transfer applications: (a) the number of open enrollment applications received; (b) the number of applications that were approved; (c) the number of applications denied; (d) the number of applications in which the student was identified as having a disability; (e) whether any disability-related services were noted as being needed; and (f) the reason(s) for each application that was denied including but not limited to teacher and staff, resources, program availability, hardship to the District, Declaration of Hardship and/or other factors. For each application that was denied based on disability, the report should include documentation regarding how that decision was made, including the information that was considered and the person(s) involved in that decision.

8. **Reporting Requirement:** By August 15, 2018, the District will submit to OCR documentation demonstrating its compliance with Action Item C.7.

**D. Open Enrollment Student Remedy**

1. **Action Item:** The District will submit, for OCR review and approval, a draft of a letter from the District's Superintendent to be sent to the parents and guardians of all students who were denied open enrollment for the 2017-2018 school year based on disability. The letter will inform the parents and guardians that the District is committed to ensuring that students are not excluded from participation in or denied the benefits of the District's open enrollment policy based solely on a student's disability. The letter will also explain that the District is making changes to its open enrollment policy and procedures and is inviting them to reapply for open enrollment any future year when open enrollment is offered, but that the opportunity to re-apply does not guarantee or insure that open enrollment will be allowed or approved, but will be made based upon consideration of teacher and staff, resources, program availability, hardship to the District, Declaration of Hardship and/or other factors.
2. **Reporting Requirements:**
  - a) By October 31, 2017, the District will submit a draft of the letter to OCR for review and approval. OCR will review the draft letter submitted by the District and notify the District if revisions are required. If OCR requires revisions to the letter, the District will re-submit the draft letter to OCR for review and approval within 30 days of receiving notice of the revisions

required by OCR. OCR and the District will follow the same process until OCR approves the District's letter.

- b) Within 20 days of receiving OCR's written approval of the letter, the District will submit to OCR documentation verifying it has sent the letter to the identified parents and guardians.

**E. General Provisions**

1. 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, interview staff, 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 at 34 C.F.R. §104.4 and 104.33, and Title II at 28 C.F.R. § 35.130, which was at issue in this case.
2. 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 at 34 C.F.R. §104.4 and 104.33, and Title II at 28 C.F.R. § 35.130.
3. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 CFR § 100.9, 100.10), or judicial proceedings, including 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.
4. This Agreement will become effective immediately upon the signature of the Superintendent or his designee below.

\_\_\_\_\_/s/\_\_\_\_\_  
Dr. Gaylen Smyer  
Superintendent  
Cassia County Joint School District No. 151

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July 24, 2017  
Date