

VOLUNTARY RESOLUTION AGREEMENT

I. INTRODUCTION

The Evergreen School District (the district) enters into this agreement to resolve all issues related to compliance review, OCR Reference No. 10165001, 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. RESOLUTION PROVISIONS

A. Policies and Procedures

1. The district will review and revise, as necessary, its current policies and procedures to ensure that students with disabilities are not treated differently from non-disabled students with respect to the length of the school day. In particular, the district's policies and procedures will ensure that students with disabilities who receive specialized transportation will not arrive to class later, or leave class earlier, than the district's general education program in each school, due to transportation schedules for buses serving those students or for any other administrative reasons unless such need is individually necessary and documented on a student's IEP or Section 504 plan.
2. After its review per paragraph 1, the district will submit its existing or revised policies and procedures related to transportation of students with disabilities to OCR for OCR's review and approval. If the currently existing policies and procedures are approved by OCR, the district will submit to OCR documentation of the policies' and procedures' formal adoption by the district. Otherwise, the District will adopt the policies and procedures approved by OCR, and submit documentation to OCR of the policies' and procedures' formal adoption by the district.
3. After receiving OCR's approval of the policies and procedures per paragraph 2, and as described in the reporting provisions of this section, below, the district will notify all staff, administrators, and bus drivers of the approved policies and procedures. The district can notify special education staff, building level

administrators, and bus drivers by e-mail, or another method calculated to reach all these groups of employees.

Reporting Provisions:

- a) Within 30 days of the resolution agreement, the district will submit for OCR's review and approval a copy of its revised policies and procedures or currently existing policies and procedures if the district determines that no revisions are necessary. If OCR requires any revisions to the policies and procedures submitted by the district, then the district will revise and resubmit the policies and procedures to OCR for review, within 20 days of receiving OCR's notice of any necessary revisions. OCR and the district will repeat this procedure until OCR approves the policies and procedures.
- b) Within 90 calendar days of receiving OCR's approval of the policies and procedures, the district will provide OCR with a report demonstrating that the policies and procedures have been formally adopted by the district.
- c) Within 90 calendar days of receiving OCR's approval of the policies and procedures, the district will provide OCR with a copy of its notice(s) to special education staff, building level administrators, and bus drivers of the policies and procedures.

B. Training

After OCR's approval of the policies and procedures described in Section A above, the district will provide in-person training to special education staff, building level administrators, transportation administrators, and other appropriate district employees about the district's policies and procedures adopted pursuant to Section A above. This training will be provided at the first opportunity during the 2017-18 school year for in-service training of affected personnel, after the policies and procedures are approved. This training must be provided by an instructor with knowledge of the applicable Title II and Section 504 requirements.

Reporting Provisions:

- a) At least 30 days before providing the training, the district will submit a report to OCR describing the training. The report will include: the date and time of

- the training, the name and qualifications of the person providing the training, and a copy of the materials that will be provided to participants at the training.
- b) Within 15 days of completion of this training, the district will provide OCR with a list of participants including their names, position titles, and program/school. The district will provide a list of any employees, including their name, position titles, and program/school, who were not able to attend the training and a description of the district's plan to provide them with makeup or alternate training.
 - c) Within 90 days of the initial training session, the district will provide a report verifying that the employees who were unable to attend the initial training session have been trained. The report will include a list of the employees who attended subsequent trainings, including their name, position title, and program/school.

C. Transportation Monitoring

By November 1, 2017, the district will initiate monitoring of the transportation provided to students with disabilities who use specialized transportation to ensure that the students with disabilities are not treated differently from non-disabled students. The district's monitoring must ensure that the buses for the disabled students who use specialized transportation are not arriving or departing at times that result in disabled students receiving less instructional time than general education students, unless a shortened school day is required by the disabled student's individual IEP or 504 plan. The district agrees to remedy any problems identified by this monitoring, per section D, below. The district's transportation monitoring will include a review of the class start and end times and the arrival and dismissal bell schedules for each individual school with special transportation riders in the district and the pickup and drop-off times for each special transportation route for each individual schools. In accordance with the reporting provisions below, the district will create a list of the students for each special route, and a list of any students whose IEPs or Section 504 plans provide for a late arrival and/or early departure due to determinations by the students' IEP or Section 504 teams that the shorter school day is necessary for the student based on the student's disability-related needs. Additionally, the district's transportation monitoring review may also include gathering information from building administrators, SPED teachers and aides, and bus drivers regarding specialized transportation. The District agrees to undertake this monitoring effort for the

remainder of the 2017-2018 school year and for the entirety of the 2018-19 school year (through June 2019).

Reporting Provisions:

- a) By December 15, 2017, the district will submit its first report to OCR about the results of its transportation monitoring. The report will include a record or copies of all information considered in the district's transportation monitoring, including bus schedules, bell schedules, route schedules, and lists of student's utilizing specialized transportation, disaggregated by school. In the report, the district will provide OCR with a list of students receiving specialized transportation and a reduced school day under their IEPs or 504 plans along with copies of the IEPs for each of these students. The report will also include a summary of any concerns identified under the district's transportation monitoring and an explanation of how the concern was remedied.
- b) By November 15, 2018, the district will submit a second report to OCR about the results of its transportation monitoring from December 15, 2017, through June 30, 2018. The report will include the same categories of information delineated above in Section a).
- c) By July 15, 2019, the district will submit a third report to OCR about the results of its transportation monitoring from November 15, 2018, through June 30, 2019. The report will include the same categories of information delineated above in Section a).

D. Compensatory Instructional Time

1. The district will notify all parents of students who used special transportation services during the 2016-2017 school year, of the review described in section D.2, below, and provide parents with a contact person at the district (including their name, title, phone number and email address) so that these parents may provide input to the district staff persons conducting the review. The district will provide parents with no less than 30 days to provide their input to the district.

Reporting Provisions:

- a) By December 1, 2017, the district will provide OCR with the draft notification for approval.
 - b) The district will send the notification to parents no later than 15 days after OCR's approval of the notification.
 - c) The district will submit to OCR verification that the notification was sent to all eligible parents within 10 days of sending the notification
2. The district will conduct a review of all disabled students who used special transportation services for their free appropriate public education (FAPE) during the 2016-2017 school year to determine if the students received less instructional time than their general education peers, due to transportation schedules for buses serving those students or other administrative reasons. This review will be completed by February 1, 2018. In conducting the review, the district will gather the instructional start and end times for these students during the applicable school year(s), and compare those times to the instructional start and end times for the general education program at the same school attended by each student with a disability who utilized specialized transportation. In determining the actual instructional start and end times for the students with disabilities who receive specialized transportation, the district will consider the bell schedule, the bus pick up/drop off times, information on early releases or late starts provided informally by the teachers, aides, parents, administrators and bus drivers for each school with special bus riders, whether students have a different instructional time or hours provided for in their IEPs, and any other information the district believes could affect the amount of instructional time that was received by these students.

Reporting Provisions: By February 15, 2018, the district will provide OCR with a report for its review and approval, documenting the results of the review that it conducted pursuant to section D (2) above. The report will contain sufficient information to demonstrate that the district considered each of the factors described in section D (2) when determining the instructional time received by students with disabilities who use specialized transportation as compared to students in general education classrooms during the 2016-2017 school year. The report will identify the students from each school who require compensatory instructional time and the amount of instructional time for each student as calculated by the district along with an explanation as to how the district reached the total amount of compensatory time due to the student. The district may provide copies of student IEPs or other information to OCR to document why

some individual students may be receiving or have received appropriate instructional time that reflects a shorter school day than the general bell schedule for the school.

3. For each student eligible for compensatory instructional time as identified in the district's review pursuant to Section (D)(1), the district will develop a compensatory instructional plan. The compensatory instructional plan will include the student's instructional time amount, proposed dates and times of delivery for the compensatory instructional time, the service provider type, and type of instructional services to be given to the student during the compensatory instructional time. If any students will require additional transportation services to access their allotted compensatory instructional time, the plan will also address how and when these students will access the necessary transportation services.

Reporting Provision: Within 60 days of receiving OCR's written approval of the report required by (D)(2), the district will submit to OCR for its review and approval the proposed compensatory instructional plan for each student identified as needing compensatory instructional time. If OCR requires any revisions to the proposed compensatory instructional plan(s), the district will make the revisions and resubmit the proposed compensatory instructional plan(s) within 20 days of receiving OCR's notice of revisions. The district and OCR will repeat this procedure until OCR approves the compensatory instructional plan(s).

4. The district will send a written notice to the parent(s) or guardian(s) of all students who are eligible for a compensatory instructional plan to offer the parent(s) or guardian(s) the additional instructional time for the student and describe the method the district will use to provide the compensatory instructional time. The notice will allow the parent(s) or guardian(s) no less than 30 days to accept the district's offer of compensatory instructional time.

Reporting Provisions:

- a) Within 15 days of receiving OCR's written approval of the compensatory instructional plan(s), the district will submit to OCR for its review and approval a proposed notice for the parent(s) or guardian(s). If OCR requires any revisions to the proposed notice, the district will make the required revisions and resubmit the proposed written notice within 20 days of receiving OCR's notice of revisions. The district and OCR will repeat this procedure until OCR approves the notice.

- b) Within 15 days of receiving OCR's written approval of the notice, the district will send the notice(s) to the parent(s) or guardian(s) by regular, first class mail or e-mail and provide OCR with documentation demonstrating that it has sent the notice.
5. The district will implement the compensatory instructional plan for each applicable student whose parent(s) or guardian(s) accept the district's offer.

Reporting Provision: Within 120 days of sending the notice(s) described in Section (D)(3), the district will provide a report to OCR documenting its implementation of the compensatory instructional plan(s). The report will include at a minimum the dates, times and locations that the compensatory instructional time was provided to students, the name of the attending students, each student's current school of enrollment, a description of what instruction was provided to each students, and the name(s) and qualifications of the service providers. The report will also contain a list of the parent(s) and guardian(s) who declined the district's offer to provide additional instructional time to their student, the parent(s) and guardian(s) contact information, and any reason(s) provided by the parent(s) or guardian(s) for not accepting the additional instructional time.

III. GENERAL PROVISIONS

- A. This agreement resolves all issues related to compliance review, OCR Reference No. 10165001, and does not constitute an admission by the district of any violation of Section 504 or Title II or any other law.
- B. OCR agrees to discontinue its investigation of OCR Reference No. 10165001 based upon the district's commitment to take the actions specified in this agreement, which, when fully implemented, will resolve the issues raised to date in relation to this case.
- C. In the event the district fails to implement any provision of this agreement, OCR will resume its investigation or take other appropriate measures within its authority to effect compliance with Section 504 and Title II.
- 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, 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 Section 504 and Title II and the implementing regulations at 34 C.F.R. 104.4(b)(1)(ii)-(iv), 34 C.F.R. 104.4(a), 28 C.F.R. 35.130(a), 28 C.F. R. 35.130(b) (ii)-(iv) which were at issue in this review.

- 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 Section 504 and Title II and the implementing regulations at 34 C.F.R. 34 C.F.R. 104.4(b)(1)(ii)-(iv), 34 C.F.R. 104.4(a), 28 C.F.R. 35.130(a), 28 C.F. R. 35.130(b) (ii)-(iv) which were at issue in this review.
- F. The district understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including enforcing the specific terms and obligations of this agreement. Before initiating administrative enforcement (34 C.F.R. 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.
- G. The district understands that it may not may not harass, coerce, intimidate, or discriminate against any individual because he or she has participated in the investigation, resolution, or monitoring process.
- H. This agreement will become effective immediately upon the signature of the Superintendent or his designee below.

Signed:

/s/

September 28, 2017

Dr. John Steach
Superintendent
Evergreen School District

Date